

WSR 18-03-031
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Children's Administration)
 [Filed January 9, 2018, 10:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-23-091.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-25-0100 What are the department's responsibilities regarding financial assistance to support children in the department's foster homes and child placing agency foster homes?

Hearing Location(s): On February 27, 2018, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sepa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than February 28, 2018.

Submit Written Comments to: DHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., February 27, 2018.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by February 13, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-25-0100 in order to no longer exclude any youth over the age of eighteen and to permit inclusion of the extended foster care population.

Reasons Supporting Proposal: See purpose statement above.

Statutory Authority for Adoption: RCW 74.13.031.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Michael Campbell, P.O. Box 45710, Olympia, WA 98504, 509-654-4940.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 (5)(b)(iii). "Rules adopting by reference without material change federal statutes or regulations, Washington state statutes ..." to ensure the WAC is consistent with federal requirements and consistent with RCW 74.13.031.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

January 5, 2018
 Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-25-0100 **What are the department's responsibilities regarding financial assistance to support children in the department's foster homes and child placing agency foster homes?** (1) The department pays only for placements and plans the department has approved.

(2) The department has final responsibility for determining initial and ongoing eligibility for financial support.

(3) ~~((Payment for children served through the behavior rehabilitation services program is limited to those children who are ages six to eighteen.)~~

(4)) The department maintains control and oversight of placements and payments through written agreements with the child placing agencies, quarterly reports, and planning meetings with the agency or facility.

WSR 18-03-035
WITHDRAWL OF PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed January 9, 2018, 11:08 a.m.]

The office of financial management requests the withdrawal of proposed rule making filed as WSR 17-20-106.

Should you have any questions regarding this matter, please contact Brandy Chinn, 360-407-4141.

Roselyn Marcus
 Assistant Director of
 Legal and Legislative Affairs

WSR 18-03-045
PROPOSED RULES
HORSE RACING COMMISSION

[Filed January 10, 2018, 8:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-19-033.

Title of Rule and Other Identifying Information: New WAC 260-70-665 Hair testing.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-

459-6462, email patty.brown@whrc.state.wa.us, by March 6, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds a new section to define the scope and purpose of using hair as a biological sample for testing.

Reasons Supporting Proposal: Clarification was needed to give stakeholders adequate descriptions of the use of hair testing and the methods supporting it.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 10, 2018
Douglas L. Moore
Executive Secretary

NEW SECTION

WAC 260-70-665 Hair testing. (1) The commission is authorized to collect and submit hair samples for testing in quarter horses and mixed breed races. For horses which have been entered to race, the hair sample may be collected at any time prior to post time, or a sample may be collected in the test barn following the race. If a sample is collected after a horse is entered into, but prior to competing in a race, a positive report received based on the sample collected will be considered a post race violation. Hair samples may also be collected for out of competition testing.

(2) The commission or its designee will comply with the official testing laboratories guidelines for hair sample collection and storage.

(3) The presence of any prohibited substances that appears in a pre- or post-race sample including, but not limited to, clenbuterol, zilpaterol, and ractopamine in QH and mixed breed races, will constitute a violation.

The presence of a therapeutic medication with an established threshold level for that breed which appears in a hair sample will not be considered a violation.

(4) Samples collected for out of competition testing in quarter horses that result in a positive finding for a prohibited substance as listed in WAC 260-70-545 will be reported to the board of stewards and considered a violation.

The presence of clenbuterol in an out of competition test in a quarter horse will result in the horse being placed on the official veterinarians list for a minimum of thirty days or until a sample is submitted and is reported as negative for the presence of clenbuterol. If, at the owners request a sample is sub-

mitted for screening for removal from the official veterinarians list, the owner(s) are responsible for the cost of the testing.

(5) If a horse is selected for hair testing and the mane is less than four and one-half inches in length, the commission may elect to collect a hair sample using the tail.

WSR 18-03-046

PROPOSED RULES

HORSE RACING COMMISSION

[Filed January 10, 2018, 8:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-01-032.

Title of Rule and Other Identifying Information: New WAC 260-70-575 Out of competition testing.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by March 6, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds a new section to give the Washington horse racing commission (WHRC) the ability to conduct out of competition testing.

Reasons Supporting Proposal: The use of out of competition testing would give the commission the ability to ensure blood doping agents are not being administered to horses in training.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WHRC, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 10, 2018

Douglas L. Moore
Executive Secretary

NEW SECTION

WAC 260-70-575 Out of competition testing. (1) The commission may request an out of competition testing (OCT) sample be collected and screened for any violation of WAC 260-70-545.

(2) The commission may request any owner or trainer currently licensed by the commission to allow an OCT sample be collected under any of the following conditions:

(a) The horse is stabled on the grounds of a licensed race meet.

(b) The horse is nominated or eligible for a stake or handicap race.

(c) The registration certificate of the horse is currently on file with the racing association.

If the horse selected is not currently stabled on the grounds, the owner or trainer shall present the horse to the test barn at a time designated by the commission.

(3) Horses will be selected for OCT by a commission veterinarian, steward, or executive secretary.

(4) Sample collection and split samples will be done in accordance with WAC 260-70-600 and 260-70-610.

(5) Refusal to submit to an OCT sample request will result in penalties consistent with WAC 260-84-110 or 260-84-130.

(6) If a horse that qualifies under subsection (2) of this section is selected for testing and is not stabled at a race meet licensed by the Washington horse racing commission, the commission may approve a regulatory veterinarian from another jurisdiction to collect and submit the sample providing the process complies with WAC 260-70-600 and 260-70-610.

(7) Penalties for a report of a positive laboratory finding in violation of this section will be consistent with WAC 260-84-110 and/or 260-84-130.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update substances used for blood doping.

Reasons Supporting Proposal: New substances have been identified that may be used in blood doping and the current rule requires the updates.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 10, 2018
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 13-03-061, filed 1/11/13, effective 2/11/13)

WAC 260-70-545 Prohibited practices. The following are prohibited practices:

(1) The possession or use of any drug, substance, or medication if the use may endanger the health or welfare of the horse or endanger the safety of the rider, or which may adversely affect the integrity of racing; or

(2) The possession or use of a drug or medication on the premises of a facility under the jurisdiction of the commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in human or animal without the approval of the official veterinarian, or any substance forbidden by an official veterinarian.

(3) The possession and/or use of blood doping agents including, but not limited to, those listed below, on the premises of a facility under the jurisdiction of the commission:

(a) ((Erythropoietin;)) Aminoimidazole carboxamide ribonucleotide (AICAR);

(b) Darbepoetin;

(c) ((Oxyglobin; and

((d))) Equine growth hormone;

(d) Erythropoietin;

(e) Hemopure;

(f) Myo-inositol trispyrophosphate (ITPP);

(g) Oxyglobin;

(h) Thymosin beta; and

(i) Venoms or derivatives thereof.

(4) No person shall at any time administer any other doping agent to a horse except pursuant to a valid therapeutic, evidence-based treatment plan.

(a) Other doping agent means a substance that has a pharmacologic potential to alter materially the performance

WSR 18-03-047**PROPOSED RULES****HORSE RACING COMMISSION**

[Filed January 10, 2018, 8:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-05-076.

Title of Rule and Other Identifying Information: WAC 260-70-545 Prohibited practices.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by March 6, 2018.

of a horse and has no generally accepted medical use in a horse when treated, and is:

(i) Capable at any time of causing an action or effect, or both, within one or more of the blood, cardiovascular, digestive, endocrine, immune, musculoskeletal, nervous, reproductive, respiratory, or urinary mammalian systems including, but not limited to, endocrine secretions and their synthetic counterparts, masking agents, oxygen carriers, and agents that directly or indirectly affect or manipulate gene expression; but

(ii) Not a substance that is considered to have no effect on the physiology of a horse except to improve nutrition or treat or prevent infections or parasite infestations.

(b) Evidence-based treatment plan means a planned course of treatment written and prescribed by an attending veterinarian before the horse is treated that describes the medical need of the horse for the treatment, the evidence-based scientific or clinical justification for using the doping agent and a determination that recognized therapeutic alternatives do not exist and is developed in good faith to treat a medical need of a horse.

((4)) (5) Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy unless the following conditions are met:

(a) Any treated horse may not race or workout for a minimum of ten days following treatment;

(b) Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines may only be used by veterinarians licensed by the commission and only approved machines at a previously disclosed location may be used;

(c) The practicing veterinarian has filed a report with an official veterinarian notifying the commission that an Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machine is on association grounds;

(d) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments are reported to an official veterinarian on the prescribed form not later than twenty-four hours after treatment.

The horse will be added to a list of ineligible horses. This list will be kept in the race office and be posted in an accessible location.

((5)) (6) The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within twenty-four hours prior to the post time of the race in which the horse is entered and without the prior approval of an official veterinarian.

WSR 18-03-048 PROPOSED RULES HORSE RACING COMMISSION

[Filed January 10, 2018, 8:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-24-069.

Title of Rule and Other Identifying Information: WAC 260-70-570 All horses are subject to inspection.

Proposed

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by March 6, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds language to inform trainers of what is expected when a horse is scheduled for an inspection.

Reasons Supporting Proposal: Restricts the practice of "icing" a horse's leg prior to the arrival of the official veterinarian for a prerace soundness exam. The use of ice prior to the exam may mask soreness or injury preexisting in the horse.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 10, 2018
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 07-07-036, filed 3/12/07, effective 4/12/07)

WAC 260-70-570 All horses are subject to inspection. All horses at locations under the jurisdiction of the commission are subject to inspections at the discretion of the stewards or an official veterinarian.

(1) The trainer of each horse or a representative of the trainer must present the horse for inspection as required by an official veterinarian.

(a) The inspection shall be conducted by an official veterinarian.

(b) The horse shall be in the trainers assigned stable area unless the official veterinarian is notified prior to the time of inspections.

(c) Every horse to be inspected shall have its legs cleaned of any poultice or other topical applications.

(d) The horse must be free of bandages, or wearing bandages that are easily removed.

(e) The horse must not have been subjected to freezing, icing, or prolonged hosing with cold water, or any other means of reducing the temperature of the legs within one hour of the inspection.

(2) The assessment of a horse's racing condition will be based on the recommendations of the American Association of Equine Practitioners and may include:

- (a) Proper identification of the horse;
- (b) Observation of each horse in motion;
- (c) Manual palpation when indicated;

(d) Close observation in the paddock and saddling area, during the parade to post and at the starting gate; and

(e) Any other inspection deemed necessary by an official veterinarian.

(3) An official veterinarian will maintain a continuing health and racing soundness record of each horse inspected.

**WSR 18-03-049
PROPOSED RULES
HORSE RACING COMMISSION**

[Filed January 10, 2018, 8:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-066.

Title of Rule and Other Identifying Information: WAC 260-52-045 The riding crop.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by March 6, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To define a "chance to respond." There are no anticipated effects.

Reasons Supporting Proposal: Gives the board of stewards and jockeys a definition of what a "chance to respond" is considered when reviewing for possible abuse of the riding crop.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 10, 2018
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 10-07-050, filed 3/11/10, effective 4/11/10)

WAC 260-52-045 The riding crop. (1) Only riding crops approved by the stewards and meeting the following specifications will be allowed:

- (a) Maximum weight of 8 ounces;
- (b) Maximum length (including flap) of 30 inches;
- (c) Minimum diameter of the shaft of one-half inch; and
- (d) The contact area of the shaft must be smooth with no protrusions or raised surface.

(2) The only additional feature that may be attached to the riding crop is a flap. If a flap is attached it must meet the following specifications:

(a) Maximum length of the flap from the end of the shaft is one inch;

(b) Maximum width of the flap is 1.6 inches, with a minimum width of 0.8 inch;

(c) The flap, from the end of the shaft, may not contain any reinforcements or additions;

(d) There may be no binding within 7 inches of the end of the flap;

(e) The flap must be humane, cushioned with memory foam or other similar shock absorbing material, unaltered from the original manufacturer, and sewn down each side of the outer layer;

(f) The flap must be dark in color and made of a material that does not harden over time; and

(g) The requirement for the riding crop is waived for Class C race meets as defined in RCW 67.16.130.

(3) The riding crop is subject to approval by the stewards and subject to inspection by any steward, commission racing official, official veterinarian, or investigator.

(4) Although the use of a riding crop is not required, any jockey who uses a riding crop during a race may do so only in a manner consistent with exerting his/her best efforts to win. In all races where a jockey will ride without a riding crop, an announcement will be made over the public address system. No device designed to increase or retard the speed of a horse, other than an approved riding crop is permitted on the grounds of any racing association. Riding crops may not be used on 2-year-old horses before April 1 of each year.

(5) Prohibited uses of the riding crop include striking a horse:

(a) On the head, flanks or on any other part of its body other than the shoulders or hind quarters except when necessary to control a horse;

(b) During the post parade or after the finish of the race, except when necessary to control the horse;

(c) Excessively or brutally causing welts or breaks in the skin;

- (d) When the horse is clearly out of the race or has obtained its maximum placing;
 - (e) Persistently even though the horse is showing no response under the riding crop; and
 - (f) Striking another rider or horse.
- (6) The riding crop should only be used for safety, correction, and encouragement. All riders should consider the following when using the riding crop:
- (a) Showing the horse the riding crop and giving the horse time to respond before striking the horse;
 - (b) Giving the horse the chance to respond before using the riding crop again; ((~~and~~)
 - (c) A chance to respond is defined as one or more of the following actions:
 - (i) Pushing on their horse with a rein in each hand keeping the riding crop in the up or down position;
 - (ii) Showing the horse the riding crop without making contact; and
 - (iii) Moving the riding crop from one hand to the other.
 - (d) Using the riding crop in rhythm with the horse's stride.
- (7) After the race or during training all horses are subject to inspection by a steward, official veterinarian, commission racing official, or investigator.
- (8) Any trainer, owner, or other licensee that instructs a jockey to use the riding crop in a manner not consistent with these rules may be subject to disciplinary action.

WSR 18-03-050
PROPOSED RULES
HORSE RACING COMMISSION

[Filed January 10, 2018, 8:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-01-087.

Title of Rule and Other Identifying Information: New WAC 260-70-555 Veterinarian practices.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by March 6, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds a new section that reflects state law on a veterinarian role in the treatment of a horse.

Reasons Supporting Proposal: This allows the regulatory body to monitor and review issues so that violations may be reported within the industry.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 10, 2018
 Douglas L. Moore
 Executive Secretary

NEW SECTION

WAC 260-70-555 Veterinarian practices. (1) A prescription drug may only be administered with a valid veterinarian-client-patient relationship (VCPR) between the attending veterinarian, the horse owner, or their representative, and the horse. A drug may only be administered following a veterinarian exam providing treatment recommendations. The relationship requirements of a VCPR are:

(a) The veterinarian, with the consent of the owner, or their representative, has accepted responsibility for making medical judgments regarding the health of the horse;

(b) The veterinarian has sufficient knowledge of the horse to make a preliminary diagnosis of the medical condition of the horse;

(c) The veterinarian has performed an examination of the horse and has knowledge of the care of the horse;

(d) The veterinarian is available to evaluate and oversee treatment outcomes, or has made appropriate arrangements for continuing care of the horse;

(e) The relationship is maintained by veterinary visits as needed; and

(f) The veterinary judgments of the veterinarian are independent and are not dictated by the trainer or owner of the horse.

(2) The trainer and veterinarian are both responsible to ensure compliance with the requirements on drug treatments of horses, except the medical judgment to recommend a drug treatment or to prescribe a drug is the sole responsibility of the veterinarian and the decision to proceed with the drug or treatment is the responsibility of the horse owner, or their representative.

WSR 18-03-051
PROPOSED RULES
HORSE RACING COMMISSION

[Filed January 10, 2018, 8:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-09-021.

Title of Rule and Other Identifying Information: WAC 260-60-460 Cancellation of claims.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, TTY 360-459-6462, email patty.brown@whrc.state.wa.us, by March 6, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds additional language that would deem a claim cancelled if the horse suffers a catastrophic injury at any time prior to the official transfer.

Reasons Supporting Proposal: Protects the licensee that files a claim from a financial loss on a horse that must be euthanized for a [an] unforeseen injury.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 10, 2018
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 17-05-058, filed 2/10/17, effective 3/13/17)

WAC 260-60-460 Cancellation of claims. (1) If within thirty days from the running of the race, in which a horse is claimed, the stewards find that a claim was made in violation of the rules of racing the stewards may disallow and cancel any such claim and order the return of the horse and order the return and refund the claim amount. In deciding whether to cancel a claim the stewards will consider which party was at fault, the status of the horse at the time the claiming violation is discovered, and such other factors as appropriate. Should the stewards cancel a claim, they may order, as appropriate, payment for the care and maintenance of the horse involved. The stewards may refer to the commission for further action any case involving a violation of the rules of racing with

respect to a claim regardless of whether the stewards deem it appropriate to order the cancellation of the claim.

(2) The stewards will void a claim if the following occurs:

(a) The horse dies or suffers a catastrophic injury during the running of the race and is euthanized prior to leaving the track, or must be euthanized due to an injury suffered prior to when the official transfer of the horse has taken place.

(b) If, within two hours of the official "off time" of the race and following an injury incurred during the race, the official veterinarian, in consultation with the practicing veterinarian, determines that it would be inhumane to prolong treatment in an attempt to save the horse, even for nonperformance purposes, the horse is euthanized. If the original owner of the horse disputes the official veterinarian's determination to euthanize, they may retain ownership of the horse and the claim will be voided.

WSR 18-03-053 PROPOSED RULES HORSE RACING COMMISSION

[Filed January 10, 2018, 8:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-21-039.

Title of Rule and Other Identifying Information: WAC 260-28-295 Trainer responsibility.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, email patty.brown@whrc.state.wa.us, by March 5, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update WAC to reflect current practice.

Reasons Supporting Proposal: Testing biological have been added as a method for drug screening and the trainer responsibility rules needs updated to reflect the change.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's

analysis showing how costs were calculated. Not business related.

January 10, 2018
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 16-09-034, filed 4/14/16, effective 5/15/16)

WAC 260-28-295 Trainer responsibility. The purpose of this section is to identify the minimum responsibilities of the trainer that pertain specifically to the health and well-being of horses in his/her care.

(1) The trainer is responsible for and is the absolute insurer of the condition of the horses entered regardless of the acts of third parties.

(2) The trainer is responsible for the condition of horses in his/her care.

(3) The trainer will immediately notify the owner(s) of any horses in the trainer's care of any pending rule violations involving their horse(s) including, but not limited to, alleged medication violations. Notice to the trainer will be deemed notice to the owner.

(4) The trainer is responsible for the presence of any prohibited drug, medication, or other prohibited substance, including permitted medication in excess of the maximum allowable concentration, in horses in his/her care. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable concentration, as reported by a commission-approved laboratory, is *prima facie* evidence of a violation of this rule. In the absence of substantial evidence to the contrary, the trainer will be held responsible.

(5) A trainer will prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

(6) A trainer whose horse has been claimed remains responsible for violation of any rules regarding that horse's participation in the race in which the horse is claimed.

(7) The trainer is responsible for:

(a) Maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

(b) Using the services of those veterinarians licensed by the commission to attend to horses that are on association grounds;

(c) The proper identity, custody, care, health, condition and safety of horses in his/her care;

(d) Immediately reporting the alteration of the sex of a horse to the horse identifier and the racing secretary;

(e) Promptly reporting to the racing secretary and an official veterinarian when a posterior digital neurectomy (heel nerving) is performed on a horse in his/her care and ensuring that such fact is designated on its certificate of registration;

(f) Promptly report to the racing secretary, when mares who have been entered to race, have been bred;

(g) If a colt or horse has been gelded, promptly submit a completed gelding report to The Jockey Club Office, or report the fact to the racing secretary;

(h) Promptly reporting the serious injury and/or death of any horse at locations under the jurisdiction of the commission to the stewards and the official veterinarian and compliance with the rules in this chapter governing postmortem examinations;

(i) Maintaining knowledge of the medication record and medication status of horses in his/her care;

(j) Immediately reporting to the stewards and the official veterinarian knowledge or reason to believe, that there has been any administration of a prohibited medication, drug or substance;

(k) Ensuring the fitness to perform creditably at the distance entered;

(l) Ensuring that every horse he/she has entered to race is present at its assigned stall for a prerace soundness inspection as prescribed in ((chapter 260-70)) WAC 260-70-570;

(m) Ensuring proper bandages, equipment and shoes;

(n) Attending the collection of a hair, urine, or blood sample or delegating a licensed employee or the owner to do so; and

(o) Ensuring that all the trainer's employees wear a safety helmet and safety vest while on horseback, in compliance with WAC 260-12-180.

WSR 18-03-054
PROPOSED RULES
HORSE RACING COMMISSION

[Filed January 10, 2018, 9:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-19-019.

Title of Rule and Other Identifying Information: WAC 260-70-540 Veterinarian's reports.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-459-6461, by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, email patty.brown@whrc.state.wa.us, by March 5, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend when reports must be filed for horses entered into a race.

Reasons Supporting Proposal: Requiring the treatment reports on horses scheduled to race be filed by 10:00 a.m. the day of the race gives the official veterinarian a better opportunity to review the reports for at risk horses.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 10, 2018
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 07-07-036, filed 3/12/07, effective 4/12/07)

WAC 260-70-540 Veterinarians' reports. (1) Every veterinarian who treats or administers a procedure to a race-horse at any location under the jurisdiction of the commission must, on a form approved by the commission, report all treatments and procedures to an official veterinarian. The report must include the following:

- (a) The name of the horse ((treated));
- (b) The name of any medication, drug, or substance administered or prescribed;
- (c) The procedure administered;
- (d) The name of the trainer;
- (e) The date and time of treatment; and
- (f) Any other information required by the official veterinarian.

(2) The practicing veterinarian must sign ((the report)) and file the report with an official veterinarian no later than post time of the race for which the horse is entered. If the horse is not entered to run in a race, the report must be filed with an official veterinarian within forty-eight hours of treatment. If a horse is entered to run in a race and the treatment occurs within forty-eight hours of post time of the race for which the horse is entered, the report must be filed by 10:00 a.m. the morning of the race.

(3) A timely and accurate treatment report may be considered by the stewards or the commission as a mitigating factor when determining the penalty for violation of these rules.

WSR 18-03-068
PROPOSED RULES
WASHINGTON STATE
SCHOOL DIRECTORS' ASSOCIATION
[Filed January 11, 2018, 2:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-23-032.

Title of Rule and Other Identifying Information: Public records disclosure procedure and collection of fees.

Hearing Location(s): On February 28, 2018, at 9:30 a.m., at the Conference Center, 221 College Street N.E., Olympia, WA 98516.

Date of Intended Adoption: March 27, 2018.

Submit Written Comments to: Hector A. Yulo, 221 College Street N.E., Olympia, WA 98516, email H.Yulo@wssda.org, fax 360-252-3022, by February 27, 2018.

Assistance for Persons with Disabilities: Contact Hector A. Yulo, phone 360-252-3015, fax 360-252-3022, email H.Yulo@wssda.org, by February 22, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To comply with EHB 1595 authorizing Washington state agencies to charge fees for copying and transmission of certain public records.

Statutory Authority for Adoption: Chapter 28A.345 RCW (Washington State School Directors' Association).

Statute Being Implemented: EHB 1595, Laws of 2017.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington State School Directors' Association, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Hector A. Yulo, 221 College Street N.E., Olympia, WA 98516, 360-252-3015.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The content of this rule is explicitly and specifically dictated by statute, EHB 1595.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

January 11, 2018
Tim Garchow
Executive Director

Title 430 WAC

WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

Chapter 430-01 WAC

Public Records Disclosure Procedure and Collection of Fees

NEW SECTION

WAC 430-01-010 Authority and purpose. (1) EHB 1595 requires state agencies to make available for inspection and copying nonexempt "public records" in accordance with published rules. In compliance, this chapter is approved and adopted by the board of directors of Washington State School Directors' Association (WSSDA) to inform, facilitate, and regulate the collection of allowed charges for public records requests.

(2) These rules will be interpreted in favor of disclosure. Prompt assistance to the public shall be provided without

affecting WSSDA's primordial mission of providing leadership, advocacy, and empowerment to its members.

NEW SECTION

WAC 430-01-020 Definitions. (1) "Business days" are weekdays, Monday through Friday, excluding official Washington state holidays and state agency closures for any reason.

(2) "Public Records Act" means chapter 42.56 RCW.

(3) "WSSDA" means Washington State School Directors' Association established under chapter 28A.345 RCW.

(4) "Public records" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the agency.

(5) "Standard page" is an 8 x 11 size paper.

NEW SECTION

WAC 430-01-030 Relevant training. All new WSSDA employees will receive basic training on public records, open government meeting, and records retention within ninety days from date of hire. Such training includes access to publications, on-line classes, and tutorials on the subject published and offered by different agencies of the state.

NEW SECTION

WAC 430-01-040 Access to public records. The public records are available for public access according to these rules, except as otherwise provided by law.

NEW SECTION

WAC 430-01-050 Public records address WSSDA's public records officer is available at the following address, telephone and fax numbers or email address:

Office of Public Records/Open Public Meetings
221 College Street N.E.
Olympia, WA 98516-5313

WSSDA Public Records Officer
Phone: 360-493-9231
Fax: 360-252-3022
Attn: Public Records Officer
Email: PublicRecordsRequest@wssda.org

NEW SECTION

WAC 430-01-060 Requests for public records. WSSDA adopts the Public Records Act regarding all disclosure of its public records. All public records request must include a reasonable description of the records to enable a WSSDA employee to locate the records requested.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 430-01-070 Responses to public records requests. In general, the public records officer shall respond within five business days from receipt of a request by doing one or more of the following:

(1) Provide copies of the records requested or make the record available for inspection;

(2) Provide an internet address and link to WSSDA's website where the specific record can be accessed;

(3) Acknowledge that WSSDA received the request and provide a reasonable estimate of the time to fully respond;

(4) Acknowledge that WSSDA received the request and ask the requestor to clarify a request that is unclear, while providing to the greatest extent possible, a reasonable estimate of the time WSSDA needs to respond to the request if it is not clarified;

(5) Deny the request;

(6) When a requestor fails to respond to WSSDA's request for clarification within thirty days and the entire request is unclear, WSSDA may close the request without further response;

(7) When a requestor fails to respond to WSSDA's request for clarification within thirty days and only part of the request is unclear, WSSDA will respond to the portion of the request that is clear and may close the remainder of the request;

(8) In certain cases, WSSDA shall seek a court order enjoining disclosure pursuant to law;

(9) WSSDA shall deny a computer-generated bot request that is one of multiple requests from the requestor within a twenty-four hour period whenever WSSDA establishes that responding to the multiple bot requests would cause excessive interference with WSSDA's other essential functions;

(10) When WSSDA fails to respond in writing within five business days of receipt of the request for disclosure, the requestor can contact the public records officer or executive director to determine the reason for the failure to respond;

(11) When the number of responsive records to a request is voluminous and the time for locating, assembling, or reviewing the records is considerable, the public records officer may choose to respond in installments treating each installment as a separate public records request.

NEW SECTION

WAC 430-01-080 Records exemption and court protection. WSSDA reserves the right to exempt public records from disclosure in accordance with chapter 42.56 RCW or other statutes which exempts or prohibits disclosure of specific information or records.

Whenever WSSDA believes that a record is exempt from disclosure and should be withheld, the public records officer shall specify in writing the exemption explaining how the exemption applies to the record withheld or redacted.

When only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer shall first redact the exempt portions; second, provide the nonexempt portions; and finally, explain in writing why portions of the record are exempt and redacted.

If the requested records contain information that may affect rights of others and the information are exempt from disclosure, the public records officer may, prior to providing the records, notify those affected to enable them to contact the requestor and ask him or her to revise the request, or, if necessary, seek a court order to prevent or limit the disclosure. The notice to the affected persons may also include a copy of the request.

WSSDA is prohibited by statute from disclosing lists of individuals for commercial purposes.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 430-01-090 Costs of providing copies of public records. (1) **Costs for paper copies.** There is no fee for inspecting public records and charges can be waived for humanitarian reasons. However, a requestor may obtain photocopies or printed copies for a fee of fifteen cents per standard 8 x 11 page.

WSSDA reserves to charge a flat rate of two dollars if the fees allowed under this procedure to provide the records are equal to, or more than, two dollars.

Before making the copies, the public records officer may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor and the balance to be paid before completion of the records request.

If requested, calculations of the costs excluding sales tax shall be shown to the requestor.

(2) **Costs for electronic records.** The actual costs for electronic records are as follows:

(a) Ten cents per page for public records scanned into an electronic format or for the use of WSSDA equipment to scan the records;

(b) Five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery;

(c) Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of WSSDA equipment to send the records electronically; AND

(d) The actual cost of any digital storage media or device provided by WSSDA, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge.

There is no charge for the emailing of electronic records to a requestor, unless another cost applies such as a scanning fee.

(3) **Costs of mailing.** WSSDA shall charge actual costs of mailing, including the cost shipping.

(4) **Payment.** Payment is made by cash, check, or money order to WSSDA.

(5) **Customized charges.** A customized service charge is imposed by WSSDA when outside information technology experts is needed to prepare data compilations or to customize electronic access services when the compilations and customized access services are not used by WSSDA.

No customized service charge is applicable unless WSSDA notifies beforehand the requestor of the customized

service charge explaining its reason, a description of the specific expertise needed, and a reasonable estimate of the charge.

These costs and charges are not exclusive and subject to change upon prior notice.

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 430-01-100 General rules for charging. (1) **No fees for costs of inspection.** The costs of preparing and copying the records for inspection including the costs for redacting and getting the records from state archive will not be charged to the requestor.

(2) **Standard photocopy.** Standard photocopies are black and white paper copies. If WSSDA will charge more than the fifteen cents per page maximum for photocopies, a statement of the actual cost of the copies produced indicating the factors and the manner used to compute the cost.

(3) **Charges for copies other than standard photocopies.** Nonstandard copies include color copies, engineering/architectural drawings, and photographs. WSSDA can charge the actual costs for nonstandard photocopies.

(4) **Copying charges apply only to copies selected by requestor.** When a requestor seeks to inspect a large number of records but only selects a smaller group of records for copying, copy charges can only be charged for the records selected by the requestor.

(5) **Use of outside vendor.** WSSDA is not required to copy records at its own facilities and can utilize external commercial copying center and bill the requestor for the amount charged by the vendor. WSSDA can arrange with the requestor to pay the vendor directly. WSSDA shall not charge the default fifteen cents per page rate when the actual cost of the copying vendor is less. The default rate is only for agency-produced copy.

NEW SECTION

WAC 430-01-110 Closing and compliance of public records requests. **Closing requests.** The request is deemed closed once the requested records or last installment of the request has been provided with the requestor expressly or impliedly acknowledging receipt without further follow-up communication being made.

Other closing conditions. A request is also deemed closed:

(1) When the requestor fails to make the required deposit of up to ten percent of the estimated costs of copying including the cost of customized service charge;

(2) When the requestor fails to timely respond to a notice of availability to inspect the records requested;

(3) When the requestor failed to inspect, pay, and/or pick up any or all the requested records within fifteen business days of issuance of such notice of availability;

Records retention. Once closed, the records of the public records request is retained and the originals of any records assembled in response to the request refiled. Any duplicate

copies of records may be destroyed in accordance with records retention schedule.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 430-01-120 Review of denials of public records requests.

The requestor may submit a petition for reconsideration either with the records officer or executive director of WSSDA for any denial of a public records request.

Upon receipt of the petition, the public records officer or executive director of WSSDA will review the petition the approval or disapproval of which constitute the final action of WSSDA.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Vance Taylor, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Stephen Kozak, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1343.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: This rule making applies to client eligibility and does not affect small businesses.

January 12, 2018

Wendy Barcus

Rules Coordinator

WSR 18-03-078 PROPOSED RULES HEALTH CARE AUTHORITY

[Filed January 12, 2018, 3:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-20-016.

Title of Rule and Other Identifying Information: WAC 182-513-1215 Community first choice (CFC)—Eligibility and 182-513-1220 Community first choice (CFC)—Spousal impoverishment protections for noninstitutional Washington apple health clients.

Hearing Location(s): On February 27, 2018, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Room 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at www.hec.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than February 28, 2018.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by February 27, 2018.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, TTY 800-848-5429 or 711, email amber.lougheed@hca.wa.gov, by February 23, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Section 2404 of the Affordable Care Act amended section 1924 of the Social Security Act, for the five-year period beginning January 1, 2014, to require states to apply the spousal impoverishment rules to additional individuals receiving long-term services and supports under 1915(d). The agency is amending this section to end the time-limited spousal impoverishment provisions for the CFC program.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, section 2404 of the Affordable Care Act amending section 1924 of the Social Security Act.

AMENDATORY SECTION (Amending WSR 17-23-039, filed 11/8/17, effective 1/1/18)

WAC 182-513-1215 Community first choice (CFC) —Eligibility. (1) A client who is determined functionally eligible for community first choice (CFC) services under WAC 388-106-0270 through 388-106-0295 is financially eligible to receive CFC services if the client is:

(a) Eligible for a noninstitutional Washington apple health (medicaid) program which provides categorically needy (CN) or alternative benefits plan (ABP) scope of care;

(b) Through December 31, 2018, a spousal impoverishment protections institutional (SIPI) spouse under WAC 182-513-1220; or

(c) Determined eligible for a home and community based (HCB) waiver program under chapter 182-515 WAC.

(2) A client whose only coverage is through one of the following programs is not eligible for CFC:

(a) Medically needy program under WAC 182-519-0100;

(b) Premium-based children's program under WAC 182-505-0215;

(c) Medicare savings programs under WAC 182-517-0300;

(d) Family planning program under WAC 182-505-0115;

(e) Take charge program under WAC 182-532-0720;

(f) Medical care services program under WAC 182-508-0005;

(g) Pregnant minor program under WAC 182-505-0117;

(h) Alien emergency medical program under WAC 182-507-0110 through 182-507-0120;

(i) State-funded long-term care (LTC) for noncitizens program under WAC 182-507-0125; or

(j) Kidney disease program under chapter 182-540 WAC.

(3) Transfer of asset penalties under WAC 182-513-1363 do not apply to CFC applicants, unless the client is applying for long-term services and supports (LTSS) that are available only through one of the HCB waivers under chapter 182-515 WAC.

(4) Home equity limits under WAC 182-513-1350 do apply.

(5) Post-eligibility treatment of income rules do not apply if the client is eligible under subsection (1)(a) or (b) of this section.

(6) Clients eligible under subsection (1)(a) or (b) of this section, who reside in an alternate living facility (ALF):

(a) Keep a personal needs allowance (PNA) under WAC 182-513-1105; and

(b) Pay up to the room and board standard under WAC 182-513-1105 except when CN eligibility is based on the rules under WAC 182-513-1205.

(7) A client who receives CFC services under the health care for workers with disabilities (HWD) program under chapter 182-511 WAC must pay the HWD premium in addition to room and board under WAC 182-513-1105, if residing in an ALF.

(8) Post-eligibility treatment of income rules do apply if a client is eligible under subsection (1)(c) of this section.

(9) A client may have to pay third-party resources as defined under WAC 182-513-1100 in addition to the room and board and participation.

(10) PNA, MNIL, and room and board standards are found at www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources.

AMENDATORY SECTION (Amending WSR 17-03-116, filed 1/17/17, effective 2/17/17)

WAC 182-513-1220 Community first choice (CFC)—Spousal impoverishment protections for noninstitutional Washington apple health clients. (1) This section is effective through December 31, 2018.

(2) The agency or its designee determines eligibility for community first choice (CFC) using spousal impoverishment protections under this section, when an applicant:

(a) Is married to, or marries, a person not in a medical institution;

(b) Meets institutional level of care and eligibility for CFC services under WAC 388-106-0270 through 388-106-0295;

(c) Is ineligible for a noninstitutional categorically needy (CN) SSI-related program:

(i) Due to spousal deemings rules under WAC 182-512-0920, or due to exceeding the resource limit in WAC 182-512-0010, or both; or

(ii) In an ALF due to combined spousal resources exceeding the resource limit in WAC 182-512-0010; and

(d) Meets the aged, blindness, or disability criteria under WAC 182-512-0050.

((2)) (3) The agency or its designee determines countable income using the SSI-related income rules under chapter

182-512 WAC but uses only the applicant's or recipient's separate income and not the income of the applicant's or recipient's spouse.

((3)) (4) The agency or its designee determines countable resources using the SSI-related resource rules under chapter 182-512 WAC, except pension funds owned by the spousal impoverishment protections community (SIPC) spouse are not excluded as described under WAC 182-512-0550:

(a) For the applicant or recipient, the resource standard is \$2000.

(b) Before determining countable resources used to establish eligibility for the applicant, the agency allocates the state spousal resource standard to the SIPC spouse.

(c) The resources of the SIPC spouse are unavailable to the spousal impoverishment protections institutionalized (SICI) spouse the month after eligibility for CFC services is established unless subsection ((4)) (9) of this section applies.

((4)) (5) The SICI spouse has until the end of the month of the first regularly scheduled eligibility review to transfer countable resources in excess of \$2000 to the SIPC spouse.

((5)) (6) A redetermination of the couple's resources under subsection ((3)) (4) of this section is required if:

(a) The SICI spouse has a break in CFC services of at least thirty consecutive days;

(b) The SICI spouse's countable resources exceed the standard under subsection ((3)) (4)(a) of this section; or

(c) The SICI spouse does not transfer the amount under subsection ((4)) (5) of this section to the SIPC spouse by the end of the month of the first regularly scheduled eligibility review.

((6)) (7) If the applicant lives at home and the applicant's separate countable income is at or below the SSI categorically needy income level (CNIL) and the applicant is resource eligible, the applicant is a SICI spouse and is financially eligible for noninstitutional CN coverage and CFC services.

((7)) (8) If the applicant lives in an ALF, has separate countable income at or below the standard under WAC 182-513-1205(2), and is resource eligible, the applicant is a SICI spouse and is financially eligible for noninstitutional CN coverage and CFC services.

((8)) (9) If the applicant is employed and has separate countable income at or below the standard under WAC 182-511-1060, the applicant is a SICI spouse and is financially eligible for noninstitutional CN coverage and CFC services.

((9)) (10) Once a person no longer receives CFC services for thirty consecutive days, the agency redetermines eligibility without using spousal impoverishment protection, under WAC 182-504-0125.

((10)) (11) If the applicant's separate countable income is above the standards under subsections ((6), (7), and (8)) (7), (8), and (9) of this section, the applicant is not eligible for CFC services under this section.

((11)) (12) The spousal impoverishment protections under this section expire on December 31, 2018.

((12)) (13) Standards are found at <http://www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources>.

WSR 18-03-085
PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed January 16, 2018, 10:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-21-016.

Title of Rule and Other Identifying Information: WAC 182-501-0135 Patient review and coordination (PRC) and 182-502-0160 Billing a client.

Hearing Location(s): On February 27, 2018, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Room 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than February 28, 2018.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by February 27, 2018.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, TTY 800-848-5429 or 711, email amber.lougheed@hca.wa.gov, by February 23, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending WAC 182-501-0135 Patient review and coordination (PRC), as follows: Adding types of PRC program clients that may change managed care organizations (MCOs) and assigned primary care providers in a time period of less than twelve months; revising the section about billing PRC program clients that receive nonemergency health care services obtained from providers to specify "nonpharmacy" providers; and clarifying information about administrative hearing and appeals for clients receiving services through fee-for-service (FFS) and MCOs.

The agency is amending WAC 182-502-0160 Billing a client, specifically subsection (6)(c), to correct a WAC reference, and subsection (6)(d), to align the language with changes being proposed to WAC 182-501-0135.

Reasons Supporting Proposal: The changes to WAC 182-501-0135 update policy, improve clarity, and remove outdated information. The changes to WAC 182-502-0160 correct a WAC reference and align it with changes being made to WAC 182-501-0135.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1346; Implementation and Enforcement: Scott Best, P.O. Box 45530, Olympia, WA 98504-5530, 360-725-1396.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. These rules do not impose costs on businesses. The only change that affects businesses is the provision that pharmacy providers must not bill PRC program clients that are not assigned to receive services from them. This provision does not impose a cost to pharmacy providers because they should not be delivering services to PRC clients that are not assigned to receive services from them.

January 16, 2018
 Wendy Barcus
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-05-006, filed 2/6/13, effective 3/9/13)

WAC 182-501-0135 Patient review and coordination (PRC). (1) **Patient review and coordination (PRC)** is a health and safety program that coordinates care and ensures clients enrolled in PRC use services appropriately and in accordance with agency rules and policies.

(a) PRC applies to medical assistance fee-for-service and managed care clients.

(b) PRC is authorized under federal medicaid law by 42 U.S.C. 1396n (a)(2) and 42 C.F.R. 431.54.

(2) **Definitions.** Definitions found in chapter 182-500 WAC and WAC 182-526-0010 apply to this section. The following definitions apply to this section only:

"Appropriate use" - Use of health care services that are safe and effective for a client's health care needs.

"Assigned provider" - An agency-enrolled health care provider or one participating with an agency-contracted managed care organization (MCO) who agrees to be assigned as a primary provider and coordinator of services for a fee-for-service or managed care client in the PRC program. Assigned providers can include a primary care provider (PCP), a pharmacy, a prescriber of controlled substances, and a hospital for nonemergency services.

"At-risk" - A term used to describe one or more of the following:

(a) A client with a medical history of:

(i) Seeking and obtaining health care services at a frequency or amount that is not medically necessary; or

(ii) Potential life-threatening events or life-threatening conditions that required or may require medical intervention.

(b) Behaviors or practices that could jeopardize a client's medical treatment or health including, but not limited to:

(i) Indications of forging or altering prescriptions;

(ii) Referrals from medical personnel, social services personnel, or MCO personnel about inappropriate behaviors or practices that place the client at risk;

(iii) Noncompliance with medical or drug and alcohol treatment;

(iv) Paying cash for medical services that result in a controlled substance prescription or paying cash for controlled substances;

(v) Arrests for diverting controlled substance prescriptions;

(vi) Positive urine drug screen for illicit street drugs or nonprescribed controlled substances;

(vii) Negative urine drug screen for prescribed controlled substances; or

(viii) Unauthorized use of a client's services card for an unauthorized purpose.

"Care management" - Services provided to clients with multiple health, behavioral, and social needs to improve care coordination, client education, and client self-management skills.

(("Client" - A person enrolled in an agency health care program and receiving service from fee-for-service provider(s) or an MCO contracted with the agency.))

"Conflicting" - Drugs or health care services that are incompatible or unsuitable for use together because of undesirable chemical or physiological effects.

"Contraindicated" - A medical treatment, procedure, or medication that is inadvisable or not recommended or warranted.

"Duplicative" - Applies to the use of the same or similar drugs and health care services without due medical justification. Example: A client receives health care services from two or more providers for the same or similar condition(s) in an overlapping time frame, or the client receives two or more similarly acting drugs in an overlapping time frame, which could result in a harmful drug interaction or an adverse reaction.

"Emergency department information exchange (EDIE)" - An internet-delivered service that enables health care providers to better identify and treat high users of the emergency department and special needs patients. When patients enter the emergency room, EDIE can proactively alert health care providers through different venues such as fax, phone, email, or integration with a facility's current electronic medical records.

"Emergency medical condition" - See WAC 182-500-0030.

"Emergency services" - See 42 C.F.R. 447.53.

"Just cause" - A legitimate reason to justify the action taken, including but not limited to, protecting the health and safety of the client.

"Managed care client" - A medical assistance client enrolled in, and receiving health care services from, an agency-contracted managed care organization (MCO).

(("Managed care organization" or "MCO")) - See WAC 182-538-050.)

"Prescriber of controlled substances" - Any of the following health care professionals who, within their scope of professional practice, are licensed to prescribe and administer controlled substances (see chapter 69.50 RCW, Uniform Controlled Substance Act) for a legitimate medical purpose:

(a) A physician under chapter 18.71 RCW;

(b) A physician assistant under chapter 18.71A RCW;

(c) An osteopathic physician under chapter 18.57 RCW;

(d) An osteopathic physician assistant under chapter 18.57A RCW; and

(e) An advanced registered nurse practitioner under chapter 18.79 RCW.

"Primary care provider" or **"PCP"** - A person licensed or certified under Title 18 RCW including, but not limited to, a physician, an advanced registered nurse practitioner (ARNP), or a physician assistant (PA) who supervises, coordinates, and provides health care services to a client, initiates referrals for specialty and ancillary care, and maintains the client's continuity of care.

(3) Clients selected for PRC review. The agency or MCO selects a client for PRC review when either or both of the following occur:

(a) A usage review report indicates the client has not used health care services appropriately; or

(b) Medical providers, social service agencies, or other concerned parties have provided direct referrals to the agency or MCO.

(4) When a fee-for-service client is selected for PRC review, the prior authorization process as defined in WAC 182-500-0085 may be required:

(a) Prior to or during a PRC review; or

(b) When the client is currently in the PRC program.

(5) Review for placement in the PRC program. When the agency or MCO selects a client for PRC review, the agency or MCO staff, with clinical oversight, reviews either the client's medical history or billing history, or both, to determine if the client has used health care services at a frequency or amount that is not medically necessary (42 C.F.R. 431.54(e)).

(6) Usage guidelines for PRC placement. Agency or MCO staff use the following usage guidelines to initiate review for PRC placement. A client may be placed in the PRC program when either the client's medical history or billing history, or both, documents any of the following:

(a) Any two or more of the following conditions occurred in a period of ninety consecutive calendar days in the previous twelve months. The client:

(i) Received services from four or more different providers, including physicians, ARNPs, and PAs not located in the same clinic or practice;

(ii) Had prescriptions filled by four or more different pharmacies;

(iii) Received ten or more prescriptions;

(iv) Had prescriptions written by four or more different prescribers not located in the same clinic or practice;

(v) Received similar services in the same day not located in the same clinic or practice; or

(vi) Had ten or more office visits;

(b) Any one of the following occurred within a period of ninety consecutive calendar days in the previous twelve months. The client:

(i) Made two or more emergency department visits;

(ii) Exhibits "at-risk" usage patterns;

(iii) Made repeated and documented efforts to seek health care services that are not medically necessary; or

(iv) Was counseled at least once by a health care provider, or an agency or MCO staff member with clinical oversight, about the appropriate use of health care services;

(c) The client received prescriptions for controlled substances from two or more different prescribers not located in the same clinic or practice in any one month within the ninety-day review period; or

(d) The client has either a medical history or billing history, or both, that demonstrates a pattern of the following at any time in the previous twelve months:

(i) Using health care services in a manner that is duplicative, excessive, or contraindicated; or

(ii) Seeking conflicting health care services, drugs, or supplies that are not within acceptable medical practice((~~;~~));

~~(iii) Being on substance abuse programs such as the Alcohol and Drug Abuse Treatment and Support Act (ADATSA)).~~

(7) **PRC review results.** As a result of the PRC review, the agency or MCO may take any of the following steps:

(a) Determine that no action is needed and close the client's file;

(b) Send the client and, if applicable, the client's authorized representative a one-time only ((letter)) written notice of concern with information on specific findings and notice of potential placement in the PRC program; or

(c) Determine that the usage guidelines for PRC placement establish that the client has used health care services at an amount or frequency that is not medically necessary, in which case the agency or MCO will take one or more of the following actions:

(i) Refer the client for education on appropriate use of health care services;

(ii) Refer the client to other support services or agencies; or

(iii) Place the client into the PRC program for an initial placement period of no less than twenty-four months. For clients younger than eighteen years of age, the MCO must get agency approval prior to placing the client into the PRC program.

(8) **Initial placement in the PRC program.** When a client is initially placed in the PRC program:

(a) The agency or MCO places the client for no less than twenty-four months with one or more of the following types of health care providers:

(i) Primary care provider (PCP);

(ii) Pharmacy for all prescriptions;

(iii) Prescriber of controlled substances;

(iv) Hospital for nonemergency services unless referred by the assigned PCP or a specialist. A client may receive covered emergency services from any hospital; or

(v) Another qualified provider type, as determined by agency or MCO program staff on a case-by-case basis.

(b) The managed care client will remain in the same MCO for no less than twelve months unless:

(i) The client moves to a residence outside the MCO's service area and the MCO is not available in the new location; or

(ii) The client's assigned PCP no longer participates with the MCO and is available in another MCO, and the client wishes to remain with the current provider; ((~~or~~))

(iii) The client is in a voluntary enrollment program or a voluntary enrollment county;

(iv) The client is in the address confidentiality program (ACP), indicated by P.O. Box 257, Olympia, WA 98507; or

(v) The client is an American Indian/Alaska native.

(c) A managed care client placed in the PRC program must remain in the PRC program for no less than twenty-four months regardless of whether the client changes MCOs or becomes a fee-for-service client.

(9) **Notifying the client about placement in the PRC program.** When the client is initially placed in the PRC program, the agency or the MCO sends the client and, if applicable, the client's authorized representative, a written notice that:

(a) Informs the client of the reason for the PRC program placement;

(b) Directs the client to respond to the agency or MCO within ten ((business)) calendar days of the date of the written notice;

(c) Directs the client to take the following actions:

(i) Select providers, subject to agency or MCO approval;

(ii) Submit additional health care information, justifying the client's use of health care services; or

(iii) Request assistance, if needed, from the agency or MCO program staff.

(d) Informs the client of administrative hearing or appeal rights (see subsection (14) of this section).

(e) Informs the client that if a response is not received within ten calendar days of the date of the written notice, the client will be assigned a provider(s) by the agency or MCO.

(10) **Selection and role of assigned provider.** A client will have a limited choice of providers.

(a) The following providers are not available:

(i) A provider who is being reviewed by the agency or licensing authority regarding quality of care;

(ii) A provider who has been suspended or disqualified from participating as an agency-enrolled or MCO-contracted provider; or

(iii) A provider whose business license is suspended or revoked by the licensing authority.

(b) For a client placed in the PRC program, the assigned:

(i) Provider(s) must be located in the client's local geographic area, in the client's selected MCO, and be reasonably accessible to the client.

(ii) PCP supervises and coordinates health care services for the client, including continuity of care and referrals to specialists when necessary.

(A) The PCP:

(I) Provides the plan of care for clients that have documented use of the emergency department for a reason that is not deemed to be an emergency medical condition;

(II) Files the plan of care with each emergency department that the client is using or with the emergency department information exchange;

(III) Makes referrals to substance abuse treatment for clients who are using the emergency department for substance abuse issues; and

(IV) Makes referrals to mental health treatment for clients who are using the emergency department for mental health treatment issues.

(B) The assigned PCP must be one of the following:

(I) A physician;

- (II) An advanced registered nurse practitioner (ARNP); or
- (III) A licensed physician assistant (PA), practicing with a supervising physician.
- (iii) Prescriber of controlled substances prescribes all controlled substances for the client;
- (iv) Pharmacy fills all prescriptions for the client; and
- (v) Hospital provides all hospital nonemergency services.
- (c) A client placed in the PRC program must remain with the assigned providers for twelve months after the assignments are made, unless:
- (i) The client moves to a residence outside the provider's geographic area;
 - (ii) The provider moves out of the client's local geographic area and is no longer reasonably accessible to the client;
 - (iii) The provider refuses to continue to serve the client;
 - (iv) The client did not select the provider. The client may request to change an assigned provider once within thirty calendar days of the ((initial)) assignment; ((or))
 - (v) The client's assigned PCP no longer participates with the MCO. In this case, the client may select a new provider from the list of available providers in the MCO or follow the assigned provider to the new MCO; or
 - (vi) The client is in the address confidentiality program (ACP), indicated by P.O. Box 257, Olympia, WA 98507.
- (d) When an assigned prescribing provider no longer contracts with the agency or the MCO:
- (i) All prescriptions from the provider are invalid thirty calendar days following the date the contract ends;
 - (ii) All prescriptions from the provider are subject to applicable prescription drugs (outpatient) rules in chapter 182-530 WAC or appropriate MCO rules; and
 - (iii) The client must choose or be assigned another provider according to the requirements in this section.
- (11) PRC placement.**
- (a) The initial PRC placement is no less than twenty-four consecutive months.
- (b) The second PRC placement is no less than an additional thirty-six consecutive months.
- (c) Each subsequent PRC placement is no less than seventy-two consecutive months.
- (12) Agency or MCO review of a PRC placement period.** The agency or MCO reviews a client's use of health care services prior to the end of each PRC placement period described in subsection (11) of this section using the guidelines in subsection (6) of this section.
- (a) The agency or MCO assigns the next PRC placement if the usage guidelines for PRC placement in subsection (6) of this section apply to the client.
- (b) When the agency or MCO assigns a subsequent PRC placement, the agency or MCO sends the client and, if applicable, the client's authorized representative, a written notice informing the client:
- (i) Of the reason for the subsequent PRC program placement;
 - (ii) Of the length of the subsequent PRC placement;

- (iii) That the current providers assigned to the client continue to be assigned to the client during the subsequent PRC placement;
- (iv) That all PRC program rules continue to apply;
- (v) Of administrative hearing or appeal rights (see subsection (14) of this section); and
- (vi) Of the rules that support the decision.
- (c) The agency may remove a client from PRC placement if the client:
- (i) Successfully completes a treatment program that is provided by a chemical dependency service provider certified by the agency under chapter 388-805 WAC;
 - (ii) Submits documentation of completion of the approved treatment program to the agency; and
 - (iii) Maintains appropriate use of health care services within the usage guidelines described in subsection (6) of this section for six consecutive months after the date the treatment ends.
- (d) The agency or MCO determines the appropriate placement for a client who has been placed back into the program.
- (e) A client will remain placed in the PRC program regardless of change in eligibility program type or change in address.
- (13) Client financial responsibility.** A client placed in the PRC program may be billed by a provider and held financially responsible for nonemergency health care services ((when the client obtains nonemergency services and the)) obtained from a nonpharmacy provider ((who renders the services is not assigned or referred under the PRC program)) when the provider is not an assigned or appropriately referred provider as described in subsection (10) of this section. See WAC 182-502-0160.
- (14) Right to administrative hearing or appeal.**
- (a) A fee-for-service client who ((believes the agency has taken an invalid action pursuant to this section may request a hearing)) disagrees with an agency decision regarding placement or continued placement in the PRC program has the right to an administrative hearing regarding this placement. A client must request an administrative hearing from the agency within ninety days of the written notice of placement or continued placement to exercise this right.
- (b) A managed care client who ((believes the MCO has taken an invalid action pursuant to this section or chapter 182-538 WAC must exhaust the MCO's internal appeal process set forth in WAC 182-538-110 prior to requesting a hearing. Managed care clients cannot change MCOs until the appeal or hearing is resolved and there is a final ruling)) disagrees with an MCO decision regarding placement or continued placement in the PRC program has a right to appeal this decision in the same manner as an adverse benefit determination under WAC 182-538-110.
- (i) An appeal must be filed with the MCO within sixty calendar days of the written notice of the MCO's decision.
- (ii) A client must exhaust the right to appeal through the MCO prior to requesting an administrative hearing.
- (iii) A client who disagrees with the resolution of the appeal by the MCO may request an administrative hearing.
- (iv) A client may exercise the right to an administrative hearing by filing a request within one hundred twenty calendar days of the written notice of the MCO's decision.

dar days from the written notice of resolution of the appeal by the MCO.

(c) A client ((must request the hearing or appeal within ninety calendar days after the client receives the written notice of placement in the PRC program)) enrolled in an MCO cannot change MCOs until the MCO appeal and any administrative hearing process has been completed and a final order entered.

(d) The agency conducts ((a)) an administrative hearing according to chapter 182-526 WAC. ((Definitions for the terms "hearing," "initial order," and "final order" used in this subsection are found in WAC 182-526-0010.))

(e) A client who requests ((a)) an administrative hearing or appeal within ten calendar days from the date of the written notice of an initial PRC placement ((period under subsection (11)(a) of this section)) will not be placed in the PRC program until ((the date an initial order is issued that supports the client's placement in the PRC program or otherwise)) ordered by an administrative law judge (ALJ) or review judge.

(f) A client who requests ((a)) an administrative hearing or appeal more than ten calendar days from the date of the written notice ((under subsection (9) of this section)) of initial PRC placement will remain placed in the PRC program ((unless)) until a final administrative order is entered that orders the client's removal from the program.

(g) A client who requests ((a)) an administrative hearing or appeal ((within ninety calendar days from the date of receiving the written notice under subsection (9) of this section)) and who has already been assigned providers will remain placed in the PRC program unless a final administrative order is entered that orders the client's removal from the program.

(h) An ALJ may rule ((that)) the client be placed in the PRC program prior to the date the record is closed and prior to the date the initial order is issued based on a showing of just cause.

((i)) The client who requests a hearing challenging placement into the PRC program has the burden of proving the agency's or MCO's action was invalid. For standard of proof, see chapter 182-526 WAC.)

AMENDATORY SECTION (Amending WSR 13-15-044, filed 7/11/13, effective 8/11/13)

WAC 182-502-0160 Billing a client. (1) The purpose of this section is to specify the limited circumstances in which:

(a) Fee-for-service or managed care clients can choose to self-pay for medical assistance services; and

(b) Providers (as defined in WAC 182-500-0085) have the authority to bill fee-for-service or managed care clients for medical assistance services furnished to those clients.

(2) The provider is responsible for:

(a) Verifying whether the client is eligible to receive medical assistance services on the date the services are provided;

(b) Verifying whether the client is enrolled with a medicaid agency-contracted managed care organization (MCO);

(c) Knowing the limitations of the services within the scope of the eligible client's medical program (see WAC 182-501-0050 (4)(a) and 182-501-0065);

(d) Informing the client of those limitations;

(e) Exhausting all applicable medicaid agency or agency-contracted MCO processes necessary to obtain authorization for requested service(s);

(f) Ensuring that translation or interpretation is provided to clients with limited English proficiency (LEP) who agree to be billed for services in accordance with this section; and

(g) Retaining all documentation which demonstrates compliance with this section.

(3) Unless otherwise specified in this section, providers must accept as payment in full the amount paid by the agency or agency-contracted MCO for medical assistance services furnished to clients. See 42 C.F.R. § 447.15.

(4) A provider must not bill a client, or anyone on the client's behalf, for any services until the provider has completed all requirements of this section, including the conditions of payment described in the agency's rules, the agency's fee-for-service billing instructions, and the requirements for billing the agency-contracted MCO in which the client is enrolled, and until the provider has then fully informed the client of his or her covered options. A provider must not bill a client for:

(a) Any services for which the provider failed to satisfy the conditions of payment described in the agency's rules, the agency's fee-for-service billing instructions, and the requirements for billing the agency-contracted MCO in which the client is enrolled.

(b) A covered service even if the provider has not received payment from the agency or the client's MCO.

(c) A covered service when the agency or its designee denies an authorization request for the service because the required information was not received from the provider or the prescriber under WAC 182-501-0165 (7)(c)(i).

(5) If the requirements of this section are satisfied, then a provider may bill a fee-for-service or a managed care client for a covered service, defined in WAC 182-501-0050(9), or a noncovered service, defined in WAC 182-501-0050(10) and 182-501-0070. The client and provider must sign and date the HCA form 13-879, Agreement to Pay for Healthcare Services, before the service is furnished. Form 13-879, including translated versions, is available to download at <http://hrsa.dshs.wa.gov/mpforms.shtml>. The requirements for this subsection are as follows:

(a) The agreement must:

(i) Indicate the anticipated date the service will be provided, which must be no later than ninety calendar days from the date of the signed agreement;

(ii) List each of the services that will be furnished;

(iii) List treatment alternatives that may have been covered by the agency or agency-contracted MCO;

(iv) Specify the total amount the client must pay for the service;

(v) Specify what items or services are included in this amount (such as ((pre-operative)) preoperative care and post-operative care). See WAC 182-501-0070(3) for payment of ancillary services for a noncovered service;

(vi) Indicate that the client has been fully informed of all available medically appropriate treatment, including services

that may be paid for by the agency or agency-contracted MCO, and that he or she chooses to get the specified service(s);

(vii) Specify that the client may request an exception to rule (ETR) in accordance with WAC 182-501-0160 when the agency or its designee denies a request for a noncovered service and that the client may choose not to do so;

(viii) Specify that the client may request an administrative hearing in accordance with chapter 182-526 WAC to appeal the agency's or its designee denial of a request for prior authorization of a covered service and that the client may choose not to do so;

(ix) Be completed only after the provider and the client have exhausted all applicable agency or agency-contracted MCO processes necessary to obtain authorization of the requested service, except that the client may choose not to request an ETR or an administrative hearing regarding agency or agency designee denials of authorization for requested service(s); and

(x) Specify which reason in subsection (b) below applies.

(b) The provider must select on the agreement form one of the following reasons (as applicable) why the client is agreeing to be billed for the service(s). The service(s) is:

(i) Not covered by the agency or the client's agency-contracted MCO and the ETR process as described in WAC 182-501-0160 has been exhausted and the service(s) is denied;

(ii) Not covered by the agency or the client's agency-contracted MCO and the client has been informed of his or her right to an ETR and has chosen not to pursue an ETR as described in WAC 182-501-0160;

(iii) Covered by the agency or the client's agency-contracted MCO, requires authorization, and the provider completes all the necessary requirements; however the agency or its designee denied the service as not medically necessary (this includes services denied as a limitation extension under WAC 182-501-0169); or

(iv) Covered by the agency or the client's agency-contracted MCO and does not require authorization, but the client has requested a specific type of treatment, supply, or equipment based on personal preference which the agency or MCO does not pay for and the specific type is not medically necessary for the client.

(c) For clients with limited English proficiency, the agreement must be the version translated in the client's primary language and interpreted if necessary. If the agreement is translated, the interpreter must also sign it;

(d) The provider must give the client a copy of the agreement and maintain the original and all documentation which supports compliance with this section in the client's file for six years from the date of service. The agreement must be made available to the agency or its designee for review upon request; and

(e) If the service is not provided within ninety calendar days of the signed agreement, a new agreement must be completed by the provider and signed by both the provider and the client.

(6) There are limited circumstances in which a provider may bill a client without executing form 13-879, Agreement

to Pay for Healthcare Services, as specified in subsection (5) of this section. The following are those circumstances:

(a) The client, the client's legal guardian, or the client's legal representative:

(i) Was reimbursed for the service directly by a third party (see WAC 182-501-0200); or

(ii) Refused to complete and sign insurance forms, billing documents, or other forms necessary for the provider to bill the third party insurance carrier for the service.

(b) The client represented himself/herself as a private pay client and not receiving medical assistance when the client was already eligible for and receiving benefits under a medical assistance program. In this circumstance, the provider must:

(i) Keep documentation of the client's declaration of medical coverage. The client's declaration must be signed and dated by the client, the client's legal guardian, or the client's legal representative; and

(ii) Give a copy of the document to the client and maintain the original for six years from the date of service, for agency or the agency's designee review upon request.

(c) The bill counts toward the financial obligation of the client or applicant (such as spenddown liability, client participation as described in ((WAC 388-513-1380)) chapters 182-513 and 182-515 WAC, emergency medical expense requirement, deductible, or copayment required by the agency or its designee). See subsection (7) of this section for billing a medically needy client for spenddown liability;

(d) The client is ((under)) placed in the agency's or an agency-contracted MCO's patient review and coordination (PRC) program (((WAC 182-501-0135))) and ((receives)) obtains nonemergency services from a nonpharmacy provider((s or health care facilities other than those to whom the client is assigned or referred under the PRC program)) that is not an assigned or appropriately referred provider as described in WAC 182-501-0135;

(e) The client is a dual-eligible client with medicare Part D coverage or similar creditable prescription drug coverage and the conditions of WAC 182-530-7700 (2)(a)(iii) are met;

(f) The service is within a service category excluded from the client's benefits package. See WAC 182-501-0060;

(g) The services were noncovered ambulance services (see WAC 182-546-0250(2));

(h) A fee-for-service client chooses to receive nonemergency services from a provider who is not contracted with the agency or its designee after being informed by the provider that he or she is not contracted with the agency or its designee and that the services offered will not be paid by the client's health care program; and

(i) An agency-contracted MCO enrollee chooses to receive nonemergency services from providers outside of the MCO's network without authorization from the MCO, i.e., a nonparticipating provider.

(7) Under chapter 182-519 WAC, an individual who has applied for medical assistance is required to spend down excess income on health care expenses to become eligible for coverage under the medically needy program. An individual must incur health care expenses greater than or equal to the amount that he or she must spend down. The provider is pro-

hibited from billing the individual for any amount in excess of the spenddown liability assigned to the bill.

(8) There are situations in which a provider must refund the full amount of a payment previously received from or on behalf of an individual and then bill the agency for the covered service that had been furnished. In these situations, the individual becomes eligible for a covered service that had already been furnished. Providers must then accept as payment in full the amount paid by the agency or its designee or managed care organization for medical assistance services furnished to clients. These situations are as follows:

(a) The individual was not receiving medical assistance on the day the service was furnished. The individual applies for medical assistance later in the same month in which the service was provided and the agency or its designee makes the individual eligible for medical assistance from the first day of that month;

(b) The client receives a delayed certification for medical assistance as defined in WAC 182-500-0025; or

(c) The client receives a certification for medical assistance for a retroactive period according to 42 C.F.R. § 435.914(a) and defined in WAC 182-500-0095.

(9) Regardless of any written, signed agreement to pay, a provider may not bill, demand, collect, or accept payment or a deposit from a client, anyone on the client's behalf, or the agency or its designee for:

(a) Copying, printing, or otherwise transferring health care information, as the term health care information is defined in chapter 70.02 RCW, to another health care provider. This includes, but is not limited to:

- (i) Medical/dental charts;
- (ii) Radiological or imaging films; and
- (iii) Laboratory or other diagnostic test results.

(b) Missed, canceled, or late appointments;

(c) Shipping and/or postage charges;

(d) "Boutique," "concierge," or enhanced service packages (e.g., newsletters, 24/7 access to provider, health seminars) as a condition for access to care; or

(e) The price differential between an authorized service or item and an "upgraded" service or item (e.g., a wheelchair with more features; brand name versus generic drugs).

WSR 18-03-098 PROPOSED RULES EXECUTIVE ETHICS BOARD

[Filed January 17, 2018, 1:38 p.m.]

Supplemental Notice to WSR 17-19-047.

Preproposal statement of inquiry was filed as WSR 17-08-069.

Title of Rule and Other Identifying Information: Chapter 292-110 WAC, Agency substantive rules.

Hearing Location(s): On March 9, 2018, at 9:00 a.m., at 2425 Bristol Court S.W., 4th Floor Conference Room, Olympia, WA.

Date of Intended Adoption: March 16, 2018.

Submit Written Comments to: Kate Reynolds, P.O. Box 40149, Olympia, WA 98504-0149, email kater@atg.wa.gov, fax 360-586-3955, by March 8, 2018.

Assistance for Persons with Disabilities: Contact Ruthann Bryant, phone 360-664-0871, fax 360-586-3955, email ruthannb@atg.wa.gov, by March 8, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update the rules to provide clarity to state employees and the public.

Statutory Authority for Adoption: RCW 42.52.360.

Statute Being Implemented: RCW 42.52.360.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Executive ethics board, governmental.

Name of Agency Personnel Responsible for Drafting: Kate Reynolds, Olympia, 360-586-6759.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

January 17, 2018

Ruthann Bryant
Administrative Officer

AMENDATORY SECTION (Amending WSR 96-22-030, filed 10/30/96, effective 11/30/96)

WAC 292-110-020 Working hours. (1) ((RCW 42.52.180(1) provides that no state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Facilities of an agency includes use of state officers or state employees during working hours. The purpose of the rule is to define the term "working hours" for officers and employees of the executive branch of state government. The prohibition in RCW 42.52.180(1) only applies during working hours.)) Nothing in RCW 42.52.180(1) or this rule prohibits a state officer or state employee from assisting in a campaign during nonworking hours.((An)) provided that the state officer or state employee who ((assists in a campaign)) engages in activity that would fall under RCW 42.52.180(1) during nonworking hours ((may)) does not use any facilities of an agency.

(2) Some state officers and state employees occupy positions that have fixed schedules with the same beginning and ending times. For state officers and state employees with fixed schedules, working hours are the hours between the starting and ending times of their ((positions)) scheduled working hours. State officers and state employees with fixed schedules may not ((assist in a campaign)) engage in activity that would fall under RCW 42.52.180(1) during these fixed working hours, unless they are on a lunch break under ((section four)) subsection (5) of this rule or on ((annual)) leave under ((section five)) subsection (6) of this rule.

((Example 1: An employee works for an agency open to the public during the hours of 8:00 a.m. to 5:00 p.m. The employee is in a position with a fixed schedule of Monday through Friday 8:00 a.m. to 5:00 p.m. The employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 8:00 a.m. or after 5:00 p.m. Monday through Friday or on Saturday or Sunday.

Example 2: An employee works for an agency open to the public during the hours of 8:00 a.m. to 5:00 p.m. Although the agency is open during the hours 8:00 a.m. to 5:00 p.m., the employee is in a position with a fixed schedule of Monday through Thursday 3:00 p.m. through 12:00 a.m. The employee's working hours are 3:00 p.m. to 12:00 a.m. Monday through Thursday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 3:00 p.m. or after 12:00 a.m. Monday through Thursday or anytime on Friday, Saturday or Sunday.))

(3) Some state officers and state employees occupy positions that do not have fixed schedules with the same starting and ending times. For state officers and state employees who do not have fixed schedules, working hours are defined as ((either):

(a) The hours set forth in any policy on working hours adopted by ((an agency. Agencies have flexibility in determining working hours for the officers and employees to meet their unique needs so long as the time considered to be working hours is clearly established. If an agency does not adopt a working hours policy, working hours shall be 8:00 a.m. to 5:00 p.m. Monday through Friday when state agencies are generally open to the public)) their agency; or

(b) If the agency has not adopted a working hours policy, 8:00 a.m. to 5:00 p.m. Monday through Friday; or

(c) The work schedule for ((an)) the state officer or state employee approved by ((the)) their agency((, if it is different from the agency policy or, if the agency has not adopted a policy, 8:00 a.m. to 5:00 p.m. Monday through Friday.

Example 3: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. Although the agency is open to the public at these times, the work of the agency goes on twenty-four hours a day. The agency has adopted a working hours policy that divides working hours into three shifts: The day shift (8:00 a.m. to 5:00 p.m.); swing shift (3:00 p.m. to 12:00 a.m.) and midnight shift (12:00 a.m. to 9:00 a.m.). An employee without a fixed schedule is assigned to the swing shift (3:00 p.m. to 12:00 a.m.) Monday through Friday. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 3:00 p.m. and sometimes after 3:00 p.m. Similarly, the employee may leave work before or after 12:00 a.m. This employee's working hours are

3:00 p.m. to 12:00 a.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 3:00 p.m. or after 12:00 a.m. Monday through Friday or on Saturday or Sunday.

Example 4: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 8:00 a.m. or after 5:00 p.m. Monday through Friday, or on Saturday or Sunday.

Example 5: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. Although the agency is open to the public at these times, the work of the agency goes on twenty-four hours a day. The agency has adopted a working hours policy that divides working hours into three shifts: The day shift (8:00 a.m. to 5:00 p.m.); swing shift (3:00 p.m. to 12:00 a.m.) and midnight shift (12:00 a.m. to 9:00 a.m.). An employee without a fixed schedule is assigned to the day shift (8:00 a.m. to 5:00 p.m.) Monday through Friday. However, the agency has approved a different work schedule for this employee. Instead of the usual day shift of 8:00 a.m. to 5:00 p.m., the employee works 7:00 a.m. to 4:00 p.m. Since the employee does not have a fixed schedule the employee, sometimes comes to work before 7:00 a.m. and sometimes after 7:00 a.m. Similarly, the employee may leave work before or after 4:00 p.m. This employee's working hours are 7:00 a.m. to 4:00 p.m. Monday through Friday. The employee may not assist in a campaign during these hours unless the employee is on a lunch break or on annual leave. The employee may assist in a campaign before 7:00 a.m. or after 4:00 p.m. Monday through Friday, or on Saturday or Sunday)).

(4) Working hours do not include state legal holidays unless the state officer's or state employee's work schedule requires the state officer or state employee to work on a state legal holiday.

(5) Working hours do not include the time ((approved and)) designated for ((an)) a state officer's or state employee's lunch break. A lunch break is between 12:00 p.m. and 1:00 p.m., unless the agency has designated a different time in a working hours policy or has approved a different lunch break as part of ((an)) the state officer's or state employee's work

schedule. If ((an)) a state officer or state employee engages in ((campaign)) activity that would fall under RCW 42.52.180(1) during the lunch break, the state officer or state employee may not make use of any of the facilities of the agency.

((Example 6: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday with a lunch break between 12:00 p.m. and 1:00 p.m. The employee may assist in a campaign during the employee's lunch break between 12:00 p.m. and 1:00 p.m.))

(6) Working hours do not include the time in official leave status ((if the leave has received advance documented or written authorization. An officer or employee on leave may assist in a campaign.

Example 7: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. On Friday the employee receives advance written authorization to be on leave for five days, Monday through Friday of the next week. The employee may assist in a campaign during this leave.

Example 8: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. In this agency employees without fixed schedules take leave during a month and then get written authorization for the leave at the end of the month. An employee takes leave Monday through Friday and assists in a campaign. At the end of the month the employee obtains written authorization for the

leave. The employee has assisted in a campaign during working hours since the employee did not obtain written authorization prior to taking leave to assist in a campaign. To assist in a campaign while on leave, the employee must obtain written authorization prior to going on leave). If a state officer or state employee engages in activity that would fall under RCW 42.52.180(1) while on leave, the state officer or state employee may not make use of any of the facilities of the agency.

(7) The definition of working hours also includes any time ((an)) a state officer or state employee is actually working((For an officer or employee with a fixed schedule, working hours includes overtime when the officer or employee is working additional hours other than those in the fixed schedule. For an officer or employee without a fixed schedule, working hours include any time the officer or employee is working.

Example 9: An employee works for an agency that is open to the public 8:00 a.m. to 5:00 p.m. Monday through Friday. The agency has not adopted a policy on working hours. An employee without a fixed schedule usually works 8:00 a.m. to 5:00 p.m. Since the employee does not have a fixed schedule, the employee sometimes comes to work before 8:00 a.m. and sometimes after 8:00 a.m. Similarly, the employee may leave work before or after 5:00 p.m. Since the agency has not adopted a policy on working hours, this employee's working hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. On a Monday the employee works from 8:00 a.m. to 9:00 p.m. Even though the employee's working hours are 8:00 to 5:00 the time spent working between 5:00 p.m. and 9:00 p.m. are working hours because the employee is working for the agency during this time)); for example overtime.

(8) The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and the insurance commissioner are ((state officers in the executive branch subject to RCW 42.52.180. These officers are)) elected to office and hold office for a term of four years and until their successors are elected and qualified. Since these officers are elected to a term of office, they do not have working hours and may ((assist in a campaign)) engage in activity that would fall under RCW 42.52.180(1) at any time. However, if these officers ((do assist in a campaign)) engage in activity that would fall under RCW 42.52.180(1), they may not make use of any facilities of an agency except as provided in RCW 42.52.180(2).

AMENDATORY SECTION (Amending WSR 96-22-029, filed 10/30/96, effective 11/30/96)

WAC 292-110-030 Measurable expenditure. (((1) RCW 42.52.180(1) provides that no state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the pro-

~~motion of or opposition to a ballot proposition. Facilities of an agency include, but are not limited to, use of stationery, postage, machines and equipment, use of state employees during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.~~

(2) RCW 42.52.180(2) sets forth exceptions to the prohibition in RCW 42.52.180(1). The exceptions include a statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry without an actual measurable expenditure of public funds (RCW 42.52.180 (2)(b)); activities that are part of the normal and regular conduct of the office (RCW 42.52.180 (2)(c)); and de minimis use of public facilities by statewide elected officials incidental to the preparation or delivery of permissible communications initiated by the official regarding the official's views on a ballot proposition that may foreseeably affect a matter that falls within the official's constitutional or statutory responsibilities (RCW 42.52.180 (2)(d)).

(3) Elected officials regularly expend public funds to respond to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions. RCW 42.52.180 (2)(b) permits elected officials to respond to such inquiries regarding ballot propositions without an actual measurable expenditure of public funds.) For purposes of RCW 42.52.180 (2)(b) "measurable expenditure" means ((an expenditure or)) any separately identifiable cost or specific portion of a cost ((incurred by the agency)) that is beyond the normal and regular ((expenditures or)) costs incurred by the agency in responding directly to ((inquiries from the media, constituents and other persons on matters unrelated to ballot propositions.

Example 1: A statewide elected official conducts a press conference in state office space. During the conference the official is asked about a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. The official replies to the question explaining his or her opinion on the ballot proposition and the reason for the opinion. It is not an ethical violation to reply to such an inquiry. The use of state office space, during the time the official answers the question about the ballot proposition, does not result in a measurable expenditure of public funds. This is because the expenditure or cost of the office space during this period is not a separately identifiable cost.

Example 2: A statewide elected official receives a letter from a constituent asking for the official's position on a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. The official replies by letter explaining his or her opinion on the ballot proposition and the reason for the opinion. In the course of preparing the reply the official has the assistance of

~~staff and uses office space, equipment, stationery and postage. It is not an ethical violation to reply to such an inquiry. There is no measurable expenditure of public funds because the agency has not incurred a cost beyond the normal and regular costs incurred by the agency in responding to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions.~~

Example 3: A statewide elected official received a letter from a constituent asking for the official's position on a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. The official replies by letter explaining his or her opinion on the ballot proposition and the reason for the opinion. In the course of preparing the reply the official has the assistance of staff and uses office space, equipment, stationery and postage. The official sends copies of the reply to other individuals on the agency mailing list. This is an ethical violation. While it is permissible to reply to the constituent who inquired about the official's position (Example 1), it is improper to send copies of the response to others. There is a measurable expenditure of public funds because the cost of the paper and postage for the additional copies is a separate identifiable cost beyond the normal and regular costs incurred by the agency in responding to inquiries from the media, constituents and other persons on matters unrelated to ballot propositions.

Example 4: A statewide elected official writes a letter to the editor of a newspaper stating the official's position on a ballot proposition. The subject of the ballot proposition does not fall within the normal and regular conduct of the official's agency nor within the official's constitutional or statutory responsibilities. In the course of preparing the letter the official has the assistance of staff and uses office space, equipment, stationery and postage. This is an ethical violation. The official has used the facilities of the agency and the exception in RCW 42.52.180 (2)(b) does not apply because the official is not responding to an inquiry)) a specific inquiry from the media, a constituent, or any other person.

AMENDATORY SECTION (Amending WSR 01-13-080, filed 6/19/01, effective 7/20/01)

WAC 292-110-050 Advisory opinions and informal staff analysis. State officers and ~~state~~ employees are encouraged to seek an advisory opinion whenever they have questions concerning ((ethical standards or potential conflicts of interest)) situations that implicate the Ethics in Public Service Act and corresponding rules. Advisory opinions are intended to provide guidance to a state officer or state employee in advance of an action or decision and ((thereby)) prevent ethics violations.

(1) ((Whenever requested by a state officer, state employee, or other person, or whenever it deems it in the public interest, the board shall issue advisory opinions.)) Requests for advisory opinions, if not issued in response to a motion by the board, ((shall)) must be written ((and signed,)) and addressed to either the chair of the board or the executive director. ((Requests may be made by electronic mail.)) Each request should provide sufficient information and circumstances to enable the board to evaluate the request ((and issue the advisory opinion)).

(2) ((Upon receiving a request for an advisory opinion,)) The executive director ((shall,)) will acknowledge a request for an advisory opinion within fifteen calendar days of receipt((, acknowledge the request)). Persons requesting advisory opinions ((shall)) will be notified of the status of the request at thirty day intervals until final action is taken.

(3) The board ((shall)) will either:

(a) Deny the request and state the reason(s) for the denial; or((,))

(b) Issue a written advisory opinion.

(4) An advisory opinion is final when it has been approved by the board ((and is signed by the executive director)).

(5) A person requesting an advisory opinion may, ((upon)) after receiving the board approved opinion, petition the board for reconsideration within thirty days of the approval date of the advisory opinion ((is issued)) if the person believes that the advisory opinion is erroneous in factual detail. A petition for reconsideration ((shall)) must be written and ((signed, and shall)) must briefly state the errors of fact. The board may deny the petition if it lacks merit, or if the person who submitted the request provided erroneous information to the board.

(6) If a state officer or state employee receives an advisory opinion and fails to make a good faith effort to follow its guidance, the board ((shall)) will give this fact weight when considering a complaint alleging a violation based on the advice received.

(7) ((Informal staff analysis.)) It is the responsibility of the executive director to provide ethics advice to any state officer, state employee, or other person; however, a state officer, state employee, or other person may only rely on written ethics advice. In providing such advice, the executive director may issue a written nonbinding staff analysis. A nonbinding staff analysis is intended to provide ethics guidance and advice in an expeditious manner, but does not substitute for a formal advisory opinion from the board. The executive director ((shall)) will provide a disclaimer to the person requesting the nonbinding staff analysis that the advice is solely the opinion of the executive director and not the opinion of the board or in any respect binding on the board. Only advisory opinions issued by the board and complaints decided by the board may be relied on for determining how the board will interpret a provision of the Ethics in Public Service Act.

(a) In considering a complaint alleging a violation, the board will give weight to the fact that the person charged in the complaint relied in good faith on written advice from the executive director.

(b) The board may review staff analyses provided under this subsection and may approve or disapprove of any advice

((so)) provided. However, any such approval or disapproval is limited to whether staff had reasonable grounds for the advice ((and should not be interpreted as indicating approval or disapproval of the advice provided)).

AMENDATORY SECTION (Amending WSR 04-18-019, filed 8/23/04, effective 9/23/04)

WAC 292-110-060 Current state officers and employees contracting with state agencies. (1) ((**Purpose**—The primary purposes of the Ethics in Public Service Act are to prevent conflicts of interest that impair the impartial and independent judgment of state officers and employees and the misuse of state position for private gain. Conflicts of interest occur whenever a state officer or state employee:

(a) Has a beneficial interest relating to a matter in which the officer or employee participated in an official capacity;

(b) Accepts outside compensation for the performance or nonperformance of official duties; or

(c) Accepts or seeks outside compensation from persons that they regulate or conduct state business with.

A misuse of state position occurs whenever a state officer or employee:

(i) Uses his or her official position to influence a contract award; or

(ii) Uses state resources to engage in private work that is not part of official duties.

(2) **Applicable law, standards of review**—RCW 42.52.020 prohibits financial and other interests that conflict with official duties. RCW 42.52.030 prohibits financial and beneficial interests in transactions involving the state. RCW 42.52.030(2) provides alternate conflict of interest provisions related to research and technology transfer agreements at certain institutions of higher education. RCW 42.52.160(1) prohibits the use of state resources for private benefit or gain. RCW 42.52.120(1) prohibits compensation outside of official duties unless certain conditions are met. RCW 42.52.120(2) requires prior board approval of noncompetitive contracts between state officers and employees and any state agency. RCW 42.52.120(3) requires that contracts approved by the board must also be filed with the board within thirty days of execution.

(3)) **Approval required** - Under RCW 42.52.120(2), a state officer or state employee must receive board approval before entering into, or obtaining a beneficial interest in, a contract or grant with a state agency only if the process for awarding the contract or grant was not open and competitive, or, whenever only one bid or application was received. The review of the contract or grant is to determine whether performance under the contract or grant by the state employee or state officer is in accordance with the Ethics in Public Service Act.

((4))) **Application for approval** - State officers and state employees seeking the approval of the board for a contract((,)) or grant application, ((or outside employment with a state agency shall)) must provide the following information to the executive director no later than thirty days prior to the commencement of the contract or grant:

(a) A description of current official duties and responsibilities;

(b) A statement of the work to be performed and a copy of the contract or grant;

(c) The duration and dollar value of the contract or grant, if applicable;

(d) A statement that no state resources will be used to perform ((the outside employment)) or to fulfill the contract or grant;

(e) A description of how the work will be performed without the use of state resources; and

(f) A statement that the employing agency has reviewed or approved the outside contract or grant under applicable rules or policies, except when requesting a conditional approval as provided in subsection ((5)) (3)(b) of this section.

((5)) (3) Approval process - The executive director ((shall)) will review the contract or grant application ((terms)) and related documents and ((may)) determine whether there could be a potential conflict with RCW 42.52.-120(1) or other applicable provisions of the Ethics in Public Service Act ((as noted in subsection (2) of this section)). If the executive director determines:

(a) There would be no potential conflict under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW, the executive director ((shall)) will approve the contract or grant application((:));

(b) There would be no potential conflict under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW but the contract or grant application has not been approved by the appointing authority ((pending a board review)), the executive director may conditionally approve the contract or grant application; or

(c) There could be a potential conflict under RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW, the executive director ((shall)) will refer the ((contract or grant application)) matter to the board for approval or disapproval.

((6)) (4) Contract or grant amendments((—)). If a contract or grant has been amended or the scope of work altered, and the effect of the amendment or alteration may create a potential conflict of interest under RCW 42.52.120 (1) or other applicable provisions of chapter 42.52 RCW, ((the)) a state officer or state employee must resubmit the contract or grant to the board at least fifteen days prior to commencement of work under the amended or altered contract or grant.

((7)) (5) Series of similar contracts((—)) or grants. If a state officer or state employee anticipates receiving a series of substantially identical contracts or grants with a state agency ((is anticipated, they)), the state officer or state employee may request that the board preapprove such contracts or grants. Preapproval ((shall)) will be effective for the period of one calendar year, after which the state officer or state employee ((shall)) must resubmit the request.

((8)) (6) Exemptions, preapproved contracts or grants((—An)). A state officer or state employee who has a contract or grant or a beneficial interest ((therein)) in a contract or grant which is preapproved by the board under this section is not required to file an application for approval of the contract or grant. However, ((the)) a state officer or state employee is responsible for determining that the contract or

grant would not conflict with RCW 42.52.120(1) or other applicable provisions of chapter 42.52 RCW. Provided that the applicable conditions in RCW 42.52.120(1) are met, the following contracts or grants are ((approved)) preapproved by the ((executive ethics)) board:

(a) A contract or grant ((whereby the)) in which a state officer or state employee receives assistance through state programs or federal programs administered by the state when they are entitled to receive such assistance by law and on the same basis as similarly situated citizens, and when the state officer or state employee does not exercise discretionary judgment with regard to an assistance program for which he or she is otherwise eligible;

(b) A contract to perform teaching duties at a ((bona fide)) community college, vocational-technical school, or institution of higher learning, provided no state resources are used to perform the duties; there is no conflict with the performance of official duties; and the state officer or state employee did not use his or her official position to influence the contract of employment;

(c) A contract held by a spouse, in which the state officer or state employee has a beneficial interest, with a state agency, provided that the state officer or state employee did not participate in the contract;

(d) A contract that was received by ((an)) a state officer or state employee of an institution of higher education to provide expert witness services in state litigation provided no ((higher education)) state resources are used to perform the duties; there is no conflict with the performance of official duties; and the state officer or state employee did not use his or her official position to influence the contract((; and

((e) A contract or grant that was received by an officer or employee of an institution of higher education or of the Spokane Intercolligate Research and Technology Institute under conditions that complied with RCW 42.52.030(2). At the request of the institution the board may advise the institution if a specific contract or grant would raise significant conflict of interest concerns under applicable provisions of chapter 42.52 RCW.

((9))).

(7) Filing required - Final contracts or grants reviewed under this rule ((shall)) must be filed with the ((executive director)) board within thirty days of execution. ((An employee who is awarded a contract or grant preapproved under subsection (8)(a) through (e) of this section shall file a copy of the contract with the board.

(10) Filing exemptions - An officer or employee of an institution of higher education or of the Spokane Intercolligate Research and Technology Institute who is awarded a contract or grant preapproved under subsection (8)(d) or (e) of this section is not required to file a copy of the contract or grant with the board. A copy of all expert witness contracts awarded under subsection (8)(d) of this section shall be maintained by the office of the attorney general subject to review by board staff. Those state institutions of higher education or the Spokane Intercolligate Research and Technology Institute who award contracts or grants under RCW 42.52.030(2) shall maintain copies of all contracts or grants approved under subsection (8)(e) of this section. In lieu of filing the contracts with the board, these institutions shall provide the

~~board by September 1 of each year a brief summary of all such contracts or grants awarded in the previous fiscal year.)~~

**WSR 18-03-099
PROPOSED RULES
DEPARTMENT OF
ENTERPRISE SERVICES**

[Filed January 17, 2018, 1:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-16-176.

Title of Rule and Other Identifying Information: Self-insurance requirements as to public benefit hospital entities joint self-insurance programs.

These rules governing self-insurance transactions implement chapter 48.190 RCW relating to the management and operations of joint public benefit hospital entity property and liability self-insurance programs.

Hearing Location(s): On February 27, 2018, at 10 a.m. to 12 p.m., in Room 1213, 1500 Jefferson, Olympia, WA.

Date of Intended Adoption: March 7, 2018.

Submit Written Comments to: Jack Zeigler, online at <https://www.surveymonkey.com/r/PublicBenefitHospital>, by March 1, 2018.

Assistance for Persons with Disabilities: Contact Jack Zeigler, phone 360-407-9209, email jack.zeigler@des.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to implement the rule-making requirements of Title 48 RCW as amended by SB 5581. SB 5581 authorizes public benefit hospital districts to participate in self-insurance risk pools with nonprofit hospitals. There are no changes to existing rules.

Reasons Supporting Proposal: These are needed to govern the creation, management, operation, and dissolution of joint self-insurance programs for public benefit hospital entities.

Statutory Authority for Adoption: RCW 43.19.011 Director—Powers and duties.

Statute Being Implemented: Title 48 RCW as amended by SB 5581.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of enterprise services (DES), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Shannon Stuber, 1500 Jefferson, Olympia, WA, 360-407-8153; and Enforcement: Jason Siems, 1500 Jefferson, Olympia, WA, 360-407-8729.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DES is not an agency listed in RCW 34.05.328 (5)(a)(i). Further, DES does not voluntarily make section 201 applicable to this rule adoption nor to date, has the joint

administrative rules review committee made section 201 applicable to this rule adoption.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

January 17, 2018

Jack Zeigler
Policy and Rules Manager

Chapter 200-160 WAC

SELF-INSURANCE REQUIREMENTS AS TO PUBLIC BENEFIT HOSPITAL ENTITIES JOINT SELF-INSURANCE PROGRAMS

NEW SECTION

WAC 200-160-010 Preamble and authority. These rules governing self-insurance transactions are adopted by the state risk manager to implement chapter 48.190 RCW relating to the management and operations of joint public benefit hospital entity property and liability self-insurance programs.

NEW SECTION

WAC 200-160-020 Definitions. (1) "Actuary" means any person who is a fellow of the Casualty Actuarial Society and a member of the American Academy of Actuaries.

(2) "Assessment" means the moneys paid by the members to a joint self-insurance program.

(3) "Broker of record" means the licensed insurance producer who, through a contractual agreement with the joint self-insurance program, procures insurance and/or reinsurance on behalf of the joint self-insurance program.

(4) "Case reserves" means the total of all claims and claims adjustment expenses for covered events which have occurred and have been reported to the joint and individual self-insurance programs as of the date of the financial statement. Case reserves include an estimate for each reported claim based on the undiscounted jury verdict value of said claim.

(5) "Claim adjustment expense" means expenses, other than claim payments, incurred in the course of investigating and settling claims.

(6) "Claim" means a demand for payment for damages or policy benefit because of the occurrence of an event that includes, but is not limited to, the destruction or damage of property or reputation, bodily injury or death and alleged civil rights violations.

(7) "Claims auditor" means a person who has the following qualifications:

(a) A minimum of five years in claims management and investigative experience;

(b) A minimum of three years of experience in auditing the same manner of claims filed against the program being audited;

(c) Proof of professional liability insurance; and

(d) Provides a statement that the auditor is independent from the program being audited, its vendors, insurers, brokers, and third-party administrators.

(8) "Competitive process" means a formal sealed, electronic, or web-based bid procedure used for all nonclaims related purchases for goods and services over fifty thousand dollars. For purchases between five thousand dollars and fifty thousand dollars, competitive process means quotations obtained from at least three vendors by telephone or written quotations, or both, and supported by evidence of competition. Purchases up to five thousand dollars are exempt from competitive bids providing procurement is based on obtaining maximum quality at minimum cost.

(9) "Competitive solicitation" means a documented formal process requiring sealed bids, providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(10) "Consultant" means an independent individual or firm contracting with a joint self-insurance program to perform actuarial, claims auditing or third-party administration services, represent the program as broker of record, or render an opinion or recommendation according to the consultant's methods, all without being subject to the control of the program, except as to satisfaction of the contracted deliverables.

(11) "Foundation agreement" means an agreement, contract or interlocal agreement between members of a joint self-insurance program as permitted by law.

(12) "Governing body" means the multimember board making decisions on behalf of the members of a joint self-insurance program.

(13) "Incurred but not reported (IBNR)" means claims and claim adjustment expenses for covered events which have occurred but have not yet been reported to the self-insurance program as of the date of the financial statement. IBNR claims include:

(a) Known loss events that are expected to be presented later as claims;

(b) Unknown loss events that are expected to become claims; and

(c) Future development on claims already reported.

(14) "Interlocal agreement" means an agreement established under the Interlocal Cooperation Act as defined in chapter 39.34 RCW.

(15) "Joint self-insurance program" means any two or more public benefit hospital entities which have entered into a cooperative risk sharing agreement subject to regulation under chapter 48.190 RCW.

(16) "Jury verdict value" means the claim value established on an individual case basis by the entity's analysis of the jury verdict results within a jurisdiction in addition to other factors including, but not limited to, severity of injury

or damage, length of recovery, credibility of parties and witnesses, ability of attorney, sympathy factors, degree of negligence of the parties and contribution or recovery from other sources.

(17) "Member" means a public benefit hospital entity as described in chapter 48.190 RCW; and

(a) Is a signatory to the joint self-insurance program's foundation agreement; and

(b) Is a participant in the excess or self-insured retention portion of the pool's insurance program subject to regulation under chapter 48.190 RCW.

(18) "Primary assets" means cash and investments (less any nonclaims liabilities).

(19) "Risk sharing" means a decision by the members of a joint self-insurance program to jointly absorb certain or specified financial exposures to risks of loss through the creation of a formal program of advance funding of actuarially determined anticipated losses; and/or joint purchase of insurance or reinsurance as a member of a joint self-insurance program formed under chapter 48.190 RCW.

(20) "Secondary assets" means insurance receivables, real estate or other assets (less any nonclaims liabilities) the value of which can be independently verified by the state risk manager.

(21) "Self-insurance program" means any individual or joint self-insurance program required by chapter 48.190 RCW to comply with this chapter.

(22) "Services" means administrative, electronic, management, loss prevention, training or other support services which do not include the participation in or purchase of the pools excess or self-insured insurance programs.

(23) "Stop-loss insurance" means a promise by an insurance company that it will cover losses of the entity it insures over and above an agreed-upon aggregated amount.

(24) "Third-party administrator" means an independent association, agency, entity or enterprise which, through a contractual agreement, provides one or more of the following ongoing services: Pool management or administration services, claims administration services, risk management services, or services for the design, implementation, or termination of an individual or joint self-insurance program.

(25) "Unallocated loss adjustment expense (ULAE)" means costs that cannot be associated with specific claims but are related to the claims adjustment process, such as administrative and internal expenses related to settlement of claims at the termination of the program.

(26) "Unpaid claims" means the obligations for future payment resulting from claims due to past events. This liability includes loss and adjustments expenses, incurred but not reported claims (IBNR), case reserves, and unallocated loss adjustment expenses (ULAE).

NEW SECTION

WAC 200-160-030 Standards for operation and management—Rules for joint hospital benefit entities self-insurance programs. The following rules apply exclusively to joint self-insurance programs. Individual entity programs shall be exempt from these requirements.

NEW SECTION

WAC 200-160-040 Standards for operation—Membership. Membership in a joint self-insurance program requires the execution of a foundation agreement. Only members may participate in risk sharing. Only members may participate in the self-insured retention layer, and only members may participate in the joint purchase of insurance or reinsurance. Further, each member shall agree to the following:

(1) Each member shall pay assessments when required by the governing body of the program.

(2) Each member shall obtain approval to join the program from the governing body of the respective member. The approval shall be by resolution or ordinance of the governing body as appropriate for the entity type.

(3) Each member shall become a signatory to the foundation agreement and subsequent amendments to the foundation agreement of the joint self-insurance program.

NEW SECTION

WAC 200-160-050 Standards for operation—Providing services to nonmembers. (1) Nonmembers may purchase ongoing services through agreement or contract as permitted by the laws of this state and other states. Nonmembers shall not participate in any coverages of the joint self-insurance program including the self-insured retention layer and the excess insurance or reinsurance layer. This section is not intended to preclude nonmembers purchasing services from becoming members of the joint self-insurance program, provided the nonmember meets the requirements of WAC 200-160-020(17) and is eligible for membership as authorized by chapter 48.190 RCW.

(2) A program intending to provide ongoing services to nonmembers shall submit a written plan to the state risk manager for approval prior to providing services. The plan shall include, at a minimum, the services to be provided, the time frame for providing such services, the expected revenues and expenditures resulting from providing said services, and a written analysis of all potential federal and state tax liabilities created by providing services to nonmembers. The arrangement to provide ongoing services shall be approved in writing by the state risk manager within sixty days of the joint self-insurance program's final plan submission.

(3) Joint self-insurance programs may provide incidental or occasional services to nonmember public benefit hospitals at no charge when there is a monetary or nonmonetary benefit to members and nonmembers in providing the incidental or occasional services.

(4) Every joint self-insurance program providing ongoing services as of the effective date of these regulations must submit a written plan meeting the requirements stated herein.

NEW SECTION

WAC 200-160-060 Standards for operation—Communication with members—Annual membership report. The joint self-insurance program shall make available to each member a copy of the program's annual membership report. The annual membership report shall include, at a minimum, the audited annual financial statements. The reports shall be

delivered to each member by electronic or regular mail. Programs may meet the delivery requirement by publishing and maintaining the membership report on the official web site of the program for a minimum of three years from the date of publication.

NEW SECTION

WAC 200-160-070 Standards for operations—Meetings. All joint self-insurance programs are required to comply with all applicable laws and regulations pertaining to public meetings. All joint self-insurance programs are required to comply with all additional requirements for meeting notifications as described in this chapter.

NEW SECTION

WAC 200-160-080 Standards for operation—Notice of regular meetings of the governing body. Every joint self-insurance program shall provide every member with a notice of the time and place of each regular meeting of the governing body at least ten days prior to the meeting. The notice shall be provided in electronic or paper form, and the time and location of each meeting shall be included in such notice. The state risk manager shall be provided a copy of all meeting notifications to members in the same form, manner and time as provided to members. In addition to electronic or regular mail, programs shall publish notification of regular meetings on the web site of the program accessible to the public. Notice of regular meetings shall be published at least ten days in advance of regular meetings.

NEW SECTION

WAC 200-160-090 Standards for operation—Special meetings—Notice to members. All joint self-insurance programs shall provide notice by electronic mail to the state risk manager and every member of the joint self-insurance program twenty-four hours in advance of every special meeting.

NEW SECTION

WAC 200-160-100 Standards for operations—Meeting agendas—Meeting minutes. Every joint self-insurance program must provide the state risk manager and every member with a preliminary agenda in advance of each meeting of the governing body. The agenda shall be provided by electronic mail and shall be posted on the web site of the program accessible to the public. Meeting minutes, after approval, shall be posted on the web site of the program accessible to the public.

NEW SECTION

WAC 200-160-110 Standards for operation—Notification of changes to bylaws or foundation agreement. Every joint self-insurance program shall provide notification of the intent to change the bylaws or foundation agreement to each member of the joint self-insurance program and the state risk manager by regular or electronic mail at least thirty days in advance of the meeting during which a vote on the pro-

posed change will occur. Such notification shall include a copy of proposed changes.

NEW SECTION

WAC 200-160-120 Standards for operation—

Changes to foundation agreement. (1) Changes to the foundation agreement shall be by amendment and shall be approved by the governing body of each joint self-insurance program during a regular meeting of the governing body.

(2) Amendments to the foundation agreement shall be adopted by ordinance or resolution of the governing board or council of each member and signed by an authorized representative of each member. The signed amendment and copy of the ordinance or resolution, as appropriate, shall be submitted to, and retained by, the joint self-insurance program. Copies of the foundation agreement and subsequent amendments shall be published on the web site of the joint self-insurance program.

(3) Changes to any terms of the foundation agreement shall require amendment using the approval and adoption process described in subsection (2) of this section.

(4) Each new member joining a joint self-insurance program after the formation of the program shall sign a copy of the most current foundation agreement and copies of all subsequent amendments to that agreement that have been adopted by the governing body of the joint self-insurance program. The joint self-insurance program shall retain the signed foundation agreements and amendments until termination of the program occurs.

(5) When a new foundation agreement is adopted by the governing body of the joint self-insurance program to replace the existing foundation agreement and incorporate amendments, the new foundation agreement shall be adopted by ordinance or resolution by the governing body of each member of the joint self-insurance program. The new foundation agreement shall be signed by an authorized representative of each member. The signed foundation agreement and a copy of the ordinance or resolution adopting the program shall be submitted to, and retained by, the joint self-insurance program until termination of the program occurs.

NEW SECTION

WAC 200-160-130 Standards for operation—Elections of the governing body.

The governing body of every joint self-insurance program shall be elected by a majority of the members voting in the election. Elections may be conducted during a regular meeting of the governing body or by mail-in ballot or electronic ballot. If mail-in or electronic ballots are used, the ballots are to be counted and secured until certified by the governing body at the same or the next regular meeting and recorded in the meeting minutes. Vacancies on the governing board shall be filled according to program bylaws. Joint self-insurance programs governed by a governing body which requires the inclusion of a voting representative from each member entity in such governing body are exempt from the requirements of this section.

NEW SECTION

WAC 200-160-140 Standards for solvency—Actuarially determined liabilities, program funding and liquidity requirements. (1) All joint self-insurance programs shall obtain an annual actuarial review as of fiscal year end which provides written estimates of the liability for unpaid claims measured at the expected level and the seventy, eighty, and ninety percent confidence level.

(2) The governing body of the joint self-insurance program shall establish and maintain primary assets, as described in WAC 200-160-020(18), in an amount at least equal to the unpaid claims estimate at the expected level as determined by the program's actuary as of fiscal year end. All joint self-insurance programs meeting this requirement shall be considered in compliance with the primary asset test. All joint self-insurance programs that do not meet the requirements of the primary asset test shall notify the state risk manager in writing of the condition. The state risk manager shall take corrective action, which may include the service of a cease and desist order upon the program, to require that the program increase primary assets in an amount equal to the unpaid claims estimate at the expected level as determined by the program's actuary as of fiscal year end.

(3) The governing body of every joint self-insurance program operating under this chapter shall establish and maintain total primary and secondary assets in an amount equal to or greater than the unpaid claim estimate at the eighty percent confidence level as determined by the program's actuary as of fiscal year end.

(4) All joint self-insurance programs authorized by chapter 48.190 RCW shall meet the requirements of both the primary asset test and the total asset test. The governing body of all joint self-insurance programs that do not meet requirements of the total asset test shall notify the state risk manager in writing of the condition. The state risk manager shall require that the program submit a written corrective action plan to the state risk manager within sixty days of notification. Such plan shall include a proposal for improving the financial condition of the self-insurance program and a time frame for completion. The state risk manager shall approve or deny the proposed plan in writing within thirty days of receipt of the final plan submission.

Joint self-insurance programs operating under an approved plan and making satisfactory progress according to the terms of the plan shall remain under supervisory watch by the state risk manager until the terms of the approved plan have been met. Programs under supervisory watch but not making satisfactory progress may be subject to the following requirements:

- (a) Increase in frequency of examinations, the cost of which shall be the responsibility of the program;
- (b) Submission of quarterly reports;
- (c) On-site monitoring by the state risk manager; or
- (d) Service of a cease and desist order upon the program.

(5) Failure by the joint self-insurance program to respond or submit a plan to improve the financial condition of the program shall cause the state risk manager to take corrective action, which may include written notification to every member of the joint self-insurance program, the service of a cease and desist order upon the program, and other available

remedies necessary to ensure the program operates in a financially sound manner.

(6) All joint self-insurance programs that do not maintain total primary and secondary assets in an amount equal to or greater than unpaid claim estimate at the seventy percent confidence level, as determined by the program's actuary as of fiscal year end, shall be issued a cease and desist order by the state risk manager. Such programs will be considered under a supervisory cease and desist order.

(7) The state risk manager shall evaluate the operational safety and soundness of the program by monitoring changes in liquidity, claims reserves and liabilities, member equity, self-insured retention, and other financial trends over time. Programs experiencing adverse trends may cause the state risk manager to increase frequency of on-site program review and monitoring, including increased communication with the governing body and requirements for corrective plans.

(8) When the state risk manager determines it necessary to analyze the program's soundness and financial safety, the state risk manager may obtain an independent actuarial evaluation to determine the accuracy of the estimate for unpaid claims liabilities, including the estimate of unallocated loss adjustment expenses. Costs of these services shall be the responsibility of the joint self-insurance program.

NEW SECTION

WAC 200-160-150 Standards for management and operations—Individual rate setting—Nondiscrimination in joint program assessments. (1) Joint self-insurance program assessment formulas shall include all costs including rating for insured and self-insured layers of coverage. Assessment formulas shall be consistent and nondiscriminatory among all members.

(2) This provision shall not be construed to prohibit individual choice of coverage by members from several offered by the joint self-insurance program. The assessment formula, including the insured and self-insured components, shall be consistently applied to reflect the selection from among these choices.

(3) The assessment formula shall be available for review by the state risk manager.

(4) Joint self-insurance programs shall not sell equity, security, or shares in the joint self-insurance program.

NEW SECTION

WAC 200-160-160 Standards for operations—Disclosures. (1) All joint self-insurance programs shall furnish to each new member joining a self-insurance program written statements which describe:

(a) Insurance coverages or benefits currently provided by the program, including any applicable restrictions, limitations, and exclusions;

(b) The method by which the member's annual contribution rates is determined;

(c) The procedure for filing a claim against the joint self-insurance program;

(d) The procedure for a member to request an adjudication of disputes or appeals arising from coverage, claim payment or denial, membership, and other issues; and

(e) General characteristics of the insurance coverage portion of the program.

(2) If any changes are made to subsection (1)(a) through (e) of this section, new written documents must be provided to each member which include changes in their own specific member coverage and annual contribution rate.

NEW SECTION

WAC 200-160-170 Standards for operations—Standards for solvency—Termination provisions. (1) Program terminations. All joint self-insurance programs shall maintain a written plan that provides for the partial or complete termination of the program and for liquidation of its assets upon termination of the program. The termination procedure shall include, but not be limited to, a provision for the settling of all its liabilities for unpaid claims and claim adjustment expenses.

(2) Member terminations. All joint self-insurance programs shall maintain a written plan that provides for the termination of membership of a member.

NEW SECTION

WAC 200-160-180 Standards for management and operations—Financial plans. (1) All joint self-insurance programs shall maintain a written plan for managing the financial resources of the program. The financial plan shall include:

(a) A procedure for accounting for moneys received, payments made and liabilities of the joint program which complies with generally accepted accounting principles;

(b) An investment policy governing the investments of the program which conforms to the legal requirements applicable to local government members; and

(c) The submission of required documents and audited financial statements to the state risk manager within one hundred twenty days of the program's fiscal year end.

(2) No financial plan of a joint self-insurance program shall permit any loans from primary assets held for payment of unpaid claims at the expected level as determined by an actuary as of fiscal year end.

NEW SECTION

WAC 200-160-190 Standards for management—Standards for contracts—Third-party administrator contracts. Before contracting for third-party administrator professional services, all joint self-insurance programs shall establish and maintain written procedures for contracting with third-party administrators. Entering a contract for services shall not relieve the governing body of the joint self-insurance program of its ultimate governing, managerial, and financial responsibilities. The procedures shall, as a minimum:

(1) Provide a method of third-party administrator selection using a formal competitive solicitation process;

(2) Require a complete written description of the services to be provided, remuneration levels, contract period and expiration date providing for a contract term no greater than five years. The contract may include an additional one year

extension to be exercised at the discretion of the joint self-insurance program;

(3) Provide for the confidentiality of the program's information, data, and other intellectual property developed or shared during the course of the contract;

(4) Provide for the program's ownership of the information, data, and other intellectual property developed or shared during the course of the contract;

(5) Provide for the expressed authorization of the joint self-insurance program, consultants to the program, the state auditor, the state risk manager, or their designees, to enter the third-party administrator's premises to inspect and audit the records and performance of the third-party administrator which pertains to the program and to obtain such records electronically when audit travel costs can be eliminated or reduced;

(6) Require the compliance with all applicable local, state, and federal laws;

(7) Establish a monitoring and acceptance procedure to determine compliance with third-party administrator contract requirements; and

(8) Establish indemnification provisions and set forth insurance requirements between the parties.

NEW SECTION

WAC 200-160-200 Standards for claims management—Claims administration. (1) All joint self-insurance programs shall adopt a written or electronic claims administration manual that includes, as a minimum, the following procedures:

(a) Claims filing procedures and forms;

(b) Standards requiring case reserves for each claim be established in the amount of the jury verdict value;

(c) Standards requiring case reserves be reviewed every ninety days or when reasonably practicable and such review is documented in the claims diary;

(d) Standards requiring appropriate adjuster workloads;

(e) Standards requiring claims payment procedures include sufficient internal controls to ensure adequate review and approval by claims management staff;

(f) Standards requiring file documentation be complete and up-to-date;

(g) Standards requiring timely and appropriate claim resolution practices;

(h) Standards requiring opportunities for recoveries be reviewed and documented for each claim;

(i) Standards requiring compliance with Internal Revenue Service (IRS) rules for 1099-MISC regulations; and

(j) Standards requiring claims files be audited on the following categories: Staffing, caseloads, supervision, diary, coverage, reserves, promptness of contacts, field investigations, file documentation, settlements, litigation management and subrogation.

(2) All joint self-insurance programs may perform claims administration services on their own behalf or may contract for claims administration services with a qualified third-party administrator, provided all of the specific requirements under subsection (1) of this section are included in the contract.

(3) All joint self-insurance programs shall have a written member coverage appeal procedure that contains, as a minimum, procedures for a member filing an appeal with the joint self-insurance program, including the time limit for filing, a time limit for response, and a provision for an additional level of review.

(4) All joint self-insurance programs shall maintain a financial system that identifies claim and claim adjustment expenses.

(5) All joint self-insurance programs shall provide for the purchase of goods and services to replace or repair property in a manner which will, in the judgment of the governing body of the joint self-insurance program, avoid further damage, injury, or loss of use to a member or third-party claimant.

(6) All joint self-insurance programs shall maintain claim expense reports for all claims made against the joint self-insurance program and its members.

(7) All joint self-insurance programs shall obtain an independent audit of claim reserving, adjusting and payment procedures every three years at a minimum. The audit shall be conducted by an independent qualified claims auditor not affiliated with the program, its insurers, its broker of record, or its third-party administrator. Such review shall be in writing and identify strengths, areas of improvement, findings, conclusions and recommendations. Such review shall be provided to the governing body and retained for a period not less than six years. The scope of the claims audit shall include claims administration procedures listed in subsection (1) of this section.

(8) The state risk manager may require more frequent claims audits for programs that, in the state risk manager's opinion, are not operationally or financially sound. Failure to obtain the requested independent claims audit when required may result in the procurement of such audit by the state risk manager on behalf of the program. Costs of these services shall be the responsibility of the joint self-insurance program.

NEW SECTION

WAC 200-160-210 Standards for management and operations—State risk manager reports. (1) Every joint property and liability self-insurance program authorized to transact business in the state of Washington shall submit the annual report to the state risk manager.

(2) The annual report to the state risk manager shall require the following information to be submitted in electronic form:

(a) Audited annual financial statements;

(b) Actuarial reserve review report on which the net claims liabilities at fiscal year ending reported in the audited financial statements are based;

(c) Copies of all insurance coverage documents;

(d) List of contracted consultants;

(e) Details of changes in articles of incorporation, bylaws, or foundation agreement;

(f) Details of ongoing services provided by contract to nonmembers;

(g) List of members added or terminated.

Such reports shall be submitted to the state risk manager no later than one hundred twenty days following the completion of the joint program's fiscal year.

(3) All joint self-insurance programs shall submit quarterly financial reports if, in the estimation of the state risk manager, the financial condition of a program warrants additional quarterly reporting requirements.

(4) Failure to provide required financial reports may result in corrective action by the state risk manager. Such actions may include:

- (a) Increase in frequency of examinations, the cost of which shall be the responsibility of the program;
- (b) On-site monitoring by the state risk manager;
- (c) Service of a cease and desist order upon the program.

NEW SECTION

WAC 200-160-220 Standards for operations—Program changes—Notification to the state risk manager. (1)

All joint self-insurance programs shall operate in the same form and manner stated in the program's original application approved by the state risk manager in accordance with RCW 48.190.060(5). Programs shall submit a written request and receive approval from the state risk manager prior to implementing the following proposed program changes:

- (a) Elimination or reduction of stop loss insurance;
- (b) Acceptance of any loans or lines of credit;
- (c) Provision of ongoing services to nonmembers;

(d) Addition of members of other entity types than those included in original application approved by state risk manager.

(2) The following program changes require written notification to the state risk manager prior to implementing the following changes:

- (a) Increases in retention level;
- (b) Decrease or elimination of insurance limits;
- (c) Initial contract with a third-party administrator, or change in third-party administrator;
- (d) Any change to bylaws;
- (e) Any amendments to the foundation agreement.

NEW SECTION

WAC 200-160-230 Standards for management and operations—Conflict of interest. (1)

Every joint self-insurance program shall require the claims auditor, a third-party administrator, the actuary, and the broker of record to contract separately with the joint self-insurance program. Each contract shall require that a written statement be included in the signed contract between the parties providing assurance that no conflict of interest exists.

(2) All joint self-insurance programs shall meet the following standards regarding restrictions on the financial interests of the program administrators:

(a) No member of the board of directors; trustee; a third-party administrator; or any other person having responsibility for the management or administration of a joint self-insurance program or the investment or other handling of the program's money shall:

- (i) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument

arising out of any transaction to which the program is or is expected to be a party except for salary or other similar compensation regularly fixed and allowed for because of services regularly rendered to the program.

(ii) Receive compensation as a consultant to the program while also acting as a member of the board of directors, trustee, third-party administrator, or as an employee.

(iii) Have any direct or indirect pecuniary interest in any loan or investment of the program.

(b) No consultant or legal counsel to the joint self-insurance program shall directly or indirectly receive or be pecuniarily interested in any commission or other compensation arising out of any contract or transaction between the joint self-insurance program and any insurer or consultant.

(c) Brokers of record for the joint self-insurance programs may receive compensation for insurance transactions performed within the scope of their licenses. The terms of compensation shall be provided for by contract between the broker of record and the governing body, and the amount or percentage of the compensation must be disclosed in writing. Contracts between brokers of record and the governing body of the joint self-insurance program shall include a provision that contingent commissions or other form of compensation not specified in the contract shall not be paid to the broker of record as a result of any joint self-insurance program insurance transactions.

(d) No third-party administrator shall serve as an officer or on the board of directors of a self-insurance program.

NEW SECTION

WAC 200-160-240 Standards for operations—State risk manager—Expense and operating cost fees. (1)

The state risk manager shall fix state risk manager fees to cover expenses and operating costs of the state risk manager's office in administering chapter 48.190 RCW. Such fees shall be levied against each joint property and liability self-insurance program regulated by chapter 48.190 RCW. Services covered by the state risk manager fees will include program reviews, monitoring and continuing oversight.

(2) The state risk manager fees shall be paid by each joint self-insurance program to the state of Washington, department of enterprise services within sixty days of the date of invoice. Any joint self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee is paid.

(3) A joint self-insurance program that has voluntarily or involuntarily terminated shall continue to pay an administrative fee until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative responsibilities of the joint self-insurance program have been satisfied.

(4) The state risk manager shall assess each prospective joint self-insurance program an initial investigation fee at a rate determined annually by the state risk manager.

NEW SECTION

WAC 200-160-250 Standards for operation—Multi-state operations. Public benefit hospital entity joint self-insurance programs operating in this state and other states must obtain any licenses, permits, and permissions to the

extent required by a state prior to commencing operations in that state.

NEW SECTION

WAC 200-160-260 Standards for operations—

Appeals of fees. (1) A joint self-insurance program that disagrees with a fee for services issued to it by the state risk manager shall notify the state risk manager in writing within thirty days after receipt of the invoice. The writing shall include the self-insurance program's reasons for challenging the fee and any other information the self-insurance program deems pertinent.

(2) The state risk manager shall review any fee appealed by a joint self-insurance program, together with the reasons for the appeal. Within fourteen days of receipt of notification from the self-insurance program, the state risk manager shall respond in writing to the self-insurance program, either reaffirming the fee or modifying it, and stating the reasons for the decision.

NEW SECTION

WAC 200-160-270 Standards for operations—

Appeals of cease and desist orders. Within ten days after a joint self-insurance program covering property or liability risks has been served with a cease and desist order under RCW 48.190.060 the entity may request an administrative hearing. The hearing provided may be held in such a place as is designated by the state risk manager and shall be conducted in accordance with chapters 34.05 RCW and 10-08 WAC.

NEW SECTION

WAC 200-160-280 Standards for contracts—Competitive solicitation standards for consultant contracts.

Every approved joint self-insurance program operating within the requirements of chapter 48.190 RCW shall use a formal competitive solicitation process in the selection of consultants which complies with the laws of this state and the requirements of other states in which it operates. The process shall provide an equal and open opportunity to qualified parties and shall culminate in a selection based on preestablished criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts. Bid responses, solicitation documents, and evidence of publication shall be retained in accordance with laws governing public records and shall be available for review by the state risk manager.

Preproposal statement of inquiry was filed as WSR 17-17-010.

Title of Rule and Other Identifying Information: WAC 182-545-200 Outpatient rehabilitation (occupational therapy, physical therapy, and speech therapy).

Hearing Location(s): On February 27, 2018, at 10:00 a.m., at the Health Care Authority (HCA), Cherry Street Plaza, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504. Metered public parking is available street side around building. A map is available at www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling 360-725-1000.

Date of Intended Adoption: Not sooner than February 28, 2018.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by February 27, 2018.

Assistance for Persons with Disabilities: Contact Amber Lougheed, phone 360-725-1349, fax 360-586-9727, TTY 800-848-5429 or 711, email amber.lougheed@hca.wa.gov, by February 23, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is revising this section to align with current professional licensing requirements in RCW 18.35.040 for speech language pathologists.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Vance Taylor, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Jean Gowen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-2005.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 18.35.040.

Explanation of exemptions: These changes are specifically dictated by statute in RCW 18.35.040, and mirror the requirement of the department of health under WAC 246-828-105.

January 22, 2018

Wendy Barcus
Rules Coordinator

WSR 18-03-130
PROPOSED RULES
HEALTH CARE AUTHORITY

[Filed January 22, 2018, 9:12 a.m.]

Original Notice.

AMENDATORY SECTION (Amending WSR 16-03-042, filed 1/14/16, effective 2/14/16)

WAC 182-545-200 Outpatient rehabilitation (occupational therapy, physical therapy, and speech therapy).

(1) The following health professionals may enroll with the medicaid agency, as defined in WAC 182-500-0010, to provide outpatient rehabilitation (which includes occupational therapy, physical therapy, and speech therapy) within their scope of practice to eligible ((persons)) clients:

- (a) A physiatrist;
- (b) A licensed occupational therapist;
- (c) A licensed occupational therapy assistant (OTA) supervised by a licensed occupational therapist;
- (d) A licensed physical therapist;
- (e) A physical therapist assistant supervised by a licensed physical therapist;
- (f) A licensed speech-language pathologist ((who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association);
- (g) A speech language pathologist who has completed the equivalent educational and work experience necessary for such a certificate; and

((h)); and

(g) A licensed optometrist to provide vision occupational therapy only.

(2) ((Persons)) Clients covered by one of the Washington apple health programs listed in the table in WAC 182-501-0060 or receiving home health care services as described in chapter 182-551 WAC (subchapter II) are eligible to receive outpatient rehabilitation as described in this chapter.

(3) ((Persons who are)) Clients enrolled in an agency-contracted managed care organization (MCO) must arrange for outpatient rehabilitation directly through ((his or her)) their agency-contracted MCO.

(4) The agency pays for outpatient rehabilitation when the services are:

- (a) Covered;
- (b) Medically necessary;
- (c) Within the scope of the eligible person's medical care program;
- (d) Ordered by:
 - (i) A physician, physician assistant (PA), or an advanced registered nurse practitioner (ARNP); or
 - (ii) An optometrist, if the ordered services are for occupational therapy only.
- (e) Within currently accepted standards of evidence-based medical practice;
- (f) Authorized, as required within this chapter, under chapters 182-501 and 182-502 WAC((,)) and the agency's published billing instructions ((and provider notices));
- (g) Begun within thirty calendar days of the date ordered;
- (h) Provided by one of the health professionals listed in subsection (1) of this section;
 - (i) Billed according to this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions ((and provider notices)); and
 - (j) Provided as part of an outpatient treatment program:
 - (i) In an office or outpatient hospital setting;

(ii) In the home, by a home health agency as described in chapter 182-551 WAC;

(iii) In a neurodevelopmental center, as described in WAC 182-545-900; or

(iv) For children with disabilities, age two or younger, in natural environments including the home and community setting in which children without disabilities participate, to the maximum extent appropriate to the needs of the child.

(5) For eligible ((persons)) clients age twenty ((years of age)) and younger, the agency covers unlimited outpatient rehabilitation.

(6) For ((persons)) clients age twenty-one ((years of age)) and older, the agency covers a limited outpatient rehabilitation benefit.

(7) Outpatient rehabilitation services for ((persons)) clients age twenty-one ((years of age)) and older must:

(a) Restore, improve, or maintain the person's level of function that has been lost due to medically documented injury or illness; and

(b) Include an on-going management plan for the ((person and/or the person's)) client or the client's caregiver to support timely discharge and continued progress.

(8) For eligible ((adults)) clients age twenty-one ((years of age)) and older, the agency limits coverage of outpatient rehabilitation as follows:

(a) Occupational therapy, per person, per year:

(i) Without authorization:

(A) One occupational therapy evaluation;

(B) One occupational therapy reevaluation at time of discharge; and

(C) Twenty-four units of occupational therapy, ((((t)))) which ((equals)) is approximately six hours((t)).

(ii) With expedited prior authorization, up to twenty-four additional units of occupational therapy may be available to continue treatment initiated under the original twenty-four units when the criteria below is met:

(A) To continue treatment of the original qualifying condition; and

(B) The ((person's)) client's diagnosis is any of the following:

(I) Acute, open, or chronic nonhealing wounds;

(II) Brain injury, which occurred within the past twenty-four months, with residual cognitive ((and/or)) or functional deficits;

(III) Burns - Second or third degree only;

(IV) Cerebral vascular accident, which occurred within the past twenty-four months, with residual cognitive ((and/or)) or functional deficits;

(V) Lymphedema;

(VI) Major joint surgery - Partial or total replacement only;

(VII) Muscular-skeletal disorders such as complex fractures ((which)) that required surgical intervention, or ((surgery)) surgery involving the spine or extremities (e.g., arm, hand, shoulder, leg, foot, knee, or hip);

(VIII) Neuromuscular disorders ((which)) that are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infective polyneuritis (Guillain-Barre));

(IX) Reflex sympathetic dystrophy;

(X) Swallowing deficits due to injury or surgery to the face, head, or neck;

(XI) Spinal cord injury ((which)) that occurred within the past twenty-four months, resulting in paraplegia or quadriplegia; or

(XII) As part of a botulinum toxin injection protocol when botulinum toxin has been prior authorized by the agency.

(b) Physical therapy, per person, per year:

(i) Without authorization:

(A) One physical therapy evaluation;

(B) One physical therapy reevaluation at time of discharge; and

(C) Twenty-four units of physical therapy, ((which)) ((equals)) is approximately six hours(()).

(ii) With expedited prior authorization, up to twenty-four additional units of physical therapy may be available to continue treatment initiated under the original twenty-four units when the criteria below is met:

(A) To continue treatment of the original qualifying condition; and

(B) The person's diagnosis is any of the following:

(I) Acute, open, or chronic nonhealing wounds;

(II) Brain injury, which occurred within the past twenty-four months, with residual functional deficits;

(III) Burns - Second ((and/or)) or third degree only;

(IV) Cerebral vascular accident, which occurred within the past twenty-four months, with residual functional deficits;

(V) Lymphedema;

(VI) Major joint surgery - Partial or total replacement only;

(VII) Muscular-skeletal disorders such as complex fractures ((which)) that required surgical intervention, or ((surgeries)) surgery involving the spine or extremities (e.g., arm, hand, shoulder, leg, foot, knee, or hip);

(VIII) Neuromuscular disorders ((which)) that are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infective polyneuritis (Guillain-Barre));

(IX) Reflex sympathetic dystrophy;

(X) Spinal cord injury, which occurred within the past twenty-four months, resulting in paraplegia or quadriplegia; or

(XI) As part of a botulinum toxin injection protocol when botulinum toxin has been prior ((approved)) authorized by the agency.

(c) Speech therapy, per person, per year:

(i) Without authorization:

(A) One speech language pathology evaluation;

(B) One speech language pathology reevaluation at the time of discharge; and

(C) Six units of speech therapy, ((which)) ((equals)) is approximately six hours(()).

(ii) With expedited prior authorization, up to six additional units of speech therapy may be available to continue treatment initiated under the original six units when the criteria below is met:

(A) To continue treatment of the original qualifying condition; and

(B) The person's diagnosis is any of the following:

(I) Brain injury, which occurred within the past twenty-four months, with residual cognitive ((and/or)) or functional deficits;

(II) Burns of internal organs such as nasal oral mucosa or upper airway;

(III) Burns of the face, head, and neck - Second or third degree only;

(IV) Cerebral vascular accident, which occurred within the past twenty-four months, with residual functional deficits;

(V) Muscular-skeletal disorders such as complex fractures ((which)) that require surgical intervention or surgery involving the vault, base of the skull, face, cervical column, larynx, or trachea;

(VI) Neuromuscular disorders ((which)) that are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infection polyneuritis (Guillain-Barre));

(VII) Speech deficit due to injury or surgery to the face, head, or neck;

(VIII) Speech deficit ((which)) that requires a speech generating device;

(IX) Swallowing deficit due to injury or surgery to the face, head, or neck; or

(X) As part of a botulinum toxin injection protocol when botulinum toxin has been prior ((approved)) authorized by the agency.

(d) Durable medical equipment (DME) needs assessments, two per person, per year.

(e) Orthotics management and training of upper ((and/or)) or lower extremities, or both, two program units, per person, per day.

(f) ((Orthotic/prosthetic)) Orthotic or prosthetic use, two program units, per person, per year.

(g) Muscle testing, one procedure, per person, per day. Muscle testing procedures cannot be billed in combination with each other. These procedures can be billed alone or with other physical and occupational therapy procedures.

(h) Wheelchair needs assessment, one per person, per year.

(9) For the purposes of this chapter:

(a) Each fifteen minutes of timed procedure code equals one unit; and

(b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.

(10) For expedited prior authorization (EPA):

(a) A provider must establish that:

(i) The person's condition meets the clinically appropriate EPA criteria outlined in this section; and

(ii) The services are expected to result in a reasonable improvement in the person's condition and achieve the person's therapeutic individual goal within sixty calendar days of initial treatment;

(b) The appropriate EPA number must be used when the provider bills the agency;

(c) Upon request, a provider must provide documentation to the agency showing how the person's condition met the criteria for EPA; and

(d) A provider may request expedited prior authorization once per year, per person, per each therapy type.

(11) The agency evaluates ((~~a request for outpatient rehabilitation that is in excess of the limitations or restrictions, according to~~) limitation extension (LE) requests regarding scope, amount, duration, and frequency of covered health care services under WAC 182-501-0169. ((Prior authorization may be requested)) Providers may submit LE requests for additional units when:

(a) The criteria for an expedited prior authorization does not apply;

(b) The number of available units under the EPA have been used and services are requested beyond the limits; or

(c) A new qualifying condition arises after the initial six visits are used.

(12) Duplicate services for outpatient rehabilitation are not allowed for the same person when both providers are performing the same or similar procedure(s).

(13) The agency does not pay separately for outpatient rehabilitation that are included as part of the reimbursement for other treatment programs. This includes, but is not limited to, hospital inpatient and nursing facility services.

(14) The agency does not reimburse a health care professional for outpatient rehabilitation performed in an outpatient hospital setting when the health care professional is not employed by the hospital. The hospital must bill the agency for the services.

**WSR 18-03-134
PROPOSED RULES
WENATCHEE VALLEY COLLEGE**

[Filed January 22, 2018, 10:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-23-197.

Title of Rule and Other Identifying Information: Access to public records, chapter 132W-277 WAC.

Hearing Location(s): On March 21, 2018, at 4 p.m., at Wenatchee Valley College, 1300 Fifth Street, Wenatchee, WA 98801.

Date of Intended Adoption: April 18, 2018.

Submit Written Comments to: Reagan Bellamy, 1300 Fifth Street, Wenatchee, WA 98801, email rbellamy@wvc.edu, fax 509-682-6441, by April 2, 2018.

Assistance for Persons with Disabilities: Contact Carla Boyd, phone 509-682-6854, email cboyd@wvc.edu, by April 2, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Wenatchee Valley College has proposed amendments to its rules concerning access to public records as codified in chapter 132W-277 WAC. The purpose of the proposal is to update the college's rules to reflect recent statutory amendments to the Washington Public Records Act (PRA), chapter 42.56 RCW. In regards to WAC 132W-277-080, the amendment would repeal the college's requirement that requests for public records adhere to a specific format. In regards to WAC 132W-277-090, the college has determined that calculating the actual cost of copying public records is unduly burden-

some and proposes adopting the schedule of allowable charges allowed for by RCW 42.56.120.

Reasons Supporting Proposal: Wenatchee Valley College's current rules pertaining to access to public records conflict with amendments to RCW 42.56.080 and 42.56.120. The proposed amendments are necessary to bring the rules into compliance with PRA and to assist the public in making requests under the act.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: WAC 132W-277-080, 132W-277-090.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Wenatchee Valley College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Reagan Bellamy, 1300 Fifth Street, Wenatchee, WA 98801, 509-682-6445.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 42.56.070, 42.56.080, and 42.56-120.

Explanation of exemptions: These rules apply only to Wenatchee Valley College in regards to its statutory obligation to provide access to public records. To the extent there are costs assessed by the college for providing records in response to PRA requests by small businesses, the authorized costs are set out in statute and apply to all requestors.

January 22, 2018
Jim Richardson
President

AMENDATORY SECTION (Amending WSR 14-08-013, filed 3/20/14, effective 4/20/14)

WAC 132W-277-080 Requests for public records. (1)

Requests for public records shall be made in person at, or mailed to the administrative office of the district at Wenatchee Valley College, 1300 5th St, Wenatchee, WA 98801 or emailed to the address located at www.wvc.edu. In accordance with the requirements of RCW 42.56.100 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, ((public records are obtainable by members of the public only when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the district which shall be available at the district administrative office. The form shall be presented to the public records officer or, if the public records officer is not available, to any member of the district's staff at the district administrative office during customary office hours. The request shall include the following information)) the district shall honor only public records requests made in person during

normal office hours or by mail or email to the addresses listed above, for identifiable public records not subject to an exemption under chapter 42.56 RCW. A public records request must be for identifiable public records. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records under chapter 42.56 RCW, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of an agency's records. The district shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons. The district's facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the district.

(2) No official format is required for making a records request. To help expedite the process of requesting records the district recommends that requests be made in writing upon a form prescribed by the district, which shall be available at the district administrative office or at www.wvc.edu. The district recommends that the form be presented to the public records officer or, if the public records officer is not available, to any member of the district's staff at the district administrative office during customary office hours, or mail to the district office or by email to the email address located at www.wvc.edu. The request should include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) ((The nature of the request;
- (d) If the information requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index; and
- (e) If the requested information is not identifiable by reference to the current index, an appropriate description of the record requested.

(2)) A description of the record(s) requested.

(3) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer, or person to whom the request is made, to assist the member of the public in succinctly identifying the public record requested.

(4) The district may deny a bot request that is one of multiple requests from the requestor to the district within a twenty-four-hour period, if the district establishes that responding to the multiple requests would cause excessive interference with other essential functions of the district. For purposes of this subsection, "bot request" means a request for public records that the district reasonably believes was automatically generated by a computer program or script.

AMENDATORY SECTION (Amending WSR 01-12-015, filed 5/25/01, effective 6/25/01)

WAC 132W-277-090 Copying. No fee shall be charged for the inspection of public records. ((The district may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records and such charges shall not exceed the amount necessary to reimburse the district for its actual costs incident to such copying.)) Calculating the actual costs of charges for providing public records is unduly burdensome because it will consume scarce district resources to conduct a study of actual costs, and it is difficult to accurately calculate all costs directly incident to copying records, including equipment and paper costs, data storage costs, electronic production costs, and staff time for copying and sending requested records. Instead of calculating the actual costs of charges for records, the district president or designee shall establish, maintain, and make available for public inspection and copying a statement of costs that the district charges for providing photocopies or electronically produced copies of public records, and such charges for records shall not exceed the maximum default charges allowed in RCW 42.56.120 (2)(b). The district may also use any other method authorized by the Public Records Act for imposing charges for public records including, but not limited to, charging a flat fee, charging a customized service charge, or charging based on a contract, memorandum of understanding, or other agreement with the requestor. The district may waive charges assessed for records when the public records officer determines collecting a fee is not cost effective. No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate district official. ((All charges must be paid by money order, cashier's check, or cash in advance.)))

**WSR 18-03-136
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed January 22, 2018, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-18-082.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-418-0020 How does the department determine the date a change affects my cash and basic food benefits?

Hearing Location(s): On February 27, 2018, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sepa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than February 28, 2018.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., February 27, 2018.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by February 13, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes proposed under this filing amend WAC 388-418-0020 to provide clarity for public assistance recipients and prevent unnecessary overpayments regarding when recipients submit changes to their cases.

Reasons Supporting Proposal: The department is proposing to amend WAC 388-418-0020 in order to include language clarifying when changes submitted online are accepted. This proposed amendment aligns with current language regarding submission of changes via other means.

Statutory Authority for Adoption: RCW 74.04.500, 74.04.510, 74.08A.120.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ezra Paskus, 712 Pear Street S.E., Olympia, WA 98504, 360-725-4611.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025.

Explanation of exemptions: The proposed rule does not have an economic impact on small businesses.

January 18, 2018
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-18-005, filed 8/22/13, effective 10/1/13)

WAC 388-418-0020 How does the department determine the date a change affects my cash and basic food benefits? (1) ((Unless otherwise specified,)) The rules in this chapter refer to cash and basic food benefits unless otherwise specified.

(2) If you report a change that happened between the date you applied for benefits and the date we interview you under WAC 388-452-0005, we take this change into consideration when we process your application for benefits.

(3) If we learn about a change in your circumstances from another person, agency, or by matching with any number of systems, we determine the impact this change has on your benefits. We may request additional information under

WAC 388-490-0005 or update your benefits based on this information.

(4) For cash and basic food programs, if you report a change in your income that we expect to continue at least a month beyond the month when you reported the change, we recalculate the income we estimated under WAC 388-450-0215 based on this change.

(5) Changes reported outside of normal business hours, including changes you submitted online, in person, or sent to us by fax, are considered received the next business day.

(6) When a change causes an increase in benefits, you must provide proof of the change before we adjust your benefits.

(a) If you give us the proof within ten days from the date we requested it, we increase your benefits starting the month after the month you reported the change.

(b) If you give us the proof more than ten days after the date we requested it, we increase your benefits starting the month after the month we got the proof.

(c) If you are eligible for more benefits and we have already sent you benefits for that month, we provide you the additional benefits within ten days of the day we got the proof.

((7)) (7) When a change causes a decrease in benefits, we reduce your benefit amount without asking for proof.

(a) If you report a change within the time limits in WAC 388-418-0007, and you are not reporting this as part of a mid-certification review, we decrease your benefits starting the first month following the advance notice period. The advance notice period:

(i) Begins on the day we send you a letter about the change((,)); and

(ii) Is determined according to the rules in WAC 388-458-0025.

(b) If you do not report a change you must tell us about under WAC 388-418-0005, or you report a change later than we require under WAC 388-418-0007, we determine your eligibility as if you had reported this on time. If you received more benefits than you should, we set up an overpayment as described under chapter 388-410 WAC.

((7)) (8) If we are not sure how the change will affect your benefits, we send you a letter as described in WAC 388-458-0020 requesting information from you.

(a) We give you ten days to provide the information. If you need more time, you can ask for it.

(b) If you do not give us the information in time, we will stop your benefits after giving you advance notice, if required, as described in WAC 388-458-0030.

((8)) (9) Within ten days of the day we learn about a change, we send advance notice according to the rules in chapter 388-458 WAC and take necessary action to provide you the correct benefits. If you request a hearing about a proposed decrease in benefits before the effective date or within the notice period as described in WAC 388-458-0040, we wait to take action on the change.

((9)) (10) If you disagree with a decision we made to change your benefits, you may request a fair hearing under chapter 388-02 WAC. The fair hearing rules in chapter 388-02 WAC do not apply for a "mass change." A mass change is

when we change the rules that impact all recipients and applicants.

((10))) (11) When you request a hearing and receive continued benefits:

(a) We keep giving you the same benefits you got before the advance notice of reduction until the earliest of the following events occur:

(i) For basic food only, your certification period expires;

(ii) The end of the month the fair hearing decision is mailed;

(iii) You state in writing that you do not want continued benefits;

(iv) You withdraw your fair hearing request in writing; or

(v) You abandon your fair hearing request; ((or))

(vi) An administrative law judge issues a written order that ends continued benefits prior to the fair hearing.

(b) We establish an overpayment claim according to the rules in chapter 388-410 WAC when the hearing decision agrees with the action we took.

((11))) (12) Some changes have a specific effective date as follows:

(a) When cash assistance benefits increase because a person is added to your assistance unit, we use the effective date rules for applications in WAC 388-406-0055.

(b) When cash assistance benefits increase because you start paying shelter costs, we use the date the change occurred.

(c) When a change in law or regulation changes the benefit amount, we use the date specified by the law or regulation.

RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., February 27, 2018.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by February 13, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments to these rules align requirements with the health care authority's rules under Title 182 WAC, amend who can request a development disabilities administration eligibility determination, and clarify who is considered a Washington state resident.

Reasons Supporting Proposal: The proposed amendments simplify the application process for potential clients, including children receiving foster care and dependents of military service members. The proposed amendments also replace inaccurate references to cash and food assistance with residency requirements under chapter 182-503 WAC.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 74.04.815.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1589; Implementation and Enforcement: Beth Krebiel, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1547.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05-328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of Exemptions: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

January 18, 2018
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

WAC 388-823-0025 Who ((ear)) may apply for a DDA eligibility determination? (1) You ((must be a resident of the state of Washington, as described in WAC 388-823-0050, to)) may apply for ((an)) a DDA eligibility determination on your own behalf.

(2) ((The following individuals can apply)) A person may submit an application for a DDA eligibility determination on your behalf if the person is:

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-23-160.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-823-0025 Who can apply for DDA eligibility determination? and 388-823-0050 For DDA eligibility, who is considered to be a resident of the state of Washington?

Hearing Location(s): On February 27, 2018, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sefa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than February 28, 2018.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU

(a) ((If a court has not appointed the child as his own decision maker, a parent or legal representative must apply on behalf of a child under the age of eighteen years)) Delegated to consent to routine medical care for you under WAC 388-148-1560;

(b) ((If there is a)) Your legal ((guardian of an applicant age eighteen years or older, the legal guardian must apply on behalf of the adult applicant)) representative; ((or))

(c) ((If there is no legal guardian of an adult applicant age eighteen years or older, the adult applicant can apply on his/her own behalf)) Your parent:

(d) Your caretaker relative under WAC 182-500-0020;

(e) Your spouse;

(f) Your authorized representative under WAC 182-503-0130; or

(g) Applying for you because a medical condition prevents you from applying on your own behalf.

(3) ((A request for eligibility determination requires the signature of the applicant or their legal representative. With the consent of the applicant, any person, agency, or advocate may assist with the application process)) If your authorized representative or a person applying on your behalf submits your application, DDA will not make a final eligibility decision until DDA receives consent from:

(a) A person delegated to consent to routine medical care for you under WAC 388-148-1560;

(b) Your legal representative;

(c) Your parent; or

(d) Your caretaker relative under WAC 182-500-0020.

AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

WAC 388-823-0050 ((For DDA eligibility, who is considered to be a resident of the state of)) Do I have to be considered a Washington state resident to be eligible for DDA? (1) You must ((live in the state of)) be considered a Washington state resident to ((apply or continue to be a client of)) be eligible for DDA. If ((you are a child under the age of eighteen, your primary custodian or legal guardian must also live in the state of)) DDA does not consider you a Washington state resident, you are not eligible for DDA and DDA will deny or terminate your eligibility. ((Proof that you live in the state of Washington may include documentation such as a lease agreement, school records, or mail addressed to you. Such documentation will not be considered proof of residency if you have been denied medicaid or other benefits due to failure to meet residency requirements under WAC 388-468-0005.))

(2) ((DDA will not process your request for determination of eligibility or will terminate your eligibility if you do not live in the state of)) You are considered a Washington state resident if you:

(a) Meet residency requirements under WAC 182-503-0520 or 182-503-0525; or

(b) Are a dependent of a military service member and legal resident under RCW 74.04.815.

(3) Evidence that you are a Washington state resident includes but is not limited to your:

(a) Lease agreement;

(b) Voter registration;

(c) Washington state driver's license;

(d) Washington state identification card; or

(e) Receipt of benefits under one of the Washington public assistance or medicaid programs.

(4) If DDA learns that you are not a Washington state resident, DDA terminates your eligibility.

(5) You must inform DDA if your address changes. DDA will deny or terminate your eligibility if DDA does not learn your correct address.

WSR 18-03-139

PROPOSED RULES

HORSE RACING COMMISSION

[Filed January 22, 2018, 11:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-05-075.

Title of Rule and Other Identifying Information: WAC 260-70-640 Permitted medications.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-549-6461 [360-459-6461], by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, email patty.brown@whrc.state.wa.us, by March 6, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update current industry standards in threshold levels for permitted medication.

Reasons Supporting Proposal: To adopt recommended ARCI and RMTC thresholds for permitted medications that would move Washington into uniformity with the majority of other racing jurisdictions. The threshold levels have been established to ensure the equine athlete is protected and safe.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 22, 2018
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 16-09-015, filed 4/11/16, effective 5/12/16)

WAC 260-70-640 Permitted medication. Trainers using permitted medication in the care of their horses are subject to all rules governing such medications. Failure to administer permitted medication to a horse on a program of permitted medication is a violation of these rules.

(1) The use of one of three approved nonsteroidal anti-inflammatory drugs (NSAIDs) is permitted under the following conditions:

(a) The drug may not exceed the following permitted serum or plasma threshold concentrations, which are consistent with administration by a single intravenous injection at least twenty-four hours before the post time for the race in which the horse is entered:

(i) Phenylbutazone - ((5)) 2.0 micrograms per milliliter ((in overnight and nongraded stakes races, and 2 micrograms per milliliter in graded stakes races));

(ii) Flunixin - ((50)) 20 nanograms per milliliter;

(iii) Ketoprofen - ((10)) 2 nanograms per milliliter.

(b) No NSAID, including the approved NSAIDs listed in this rule, may be administered within the twenty-four hours before post time for the race in which the horse is entered.

(c) The presence of a second approved NSAID will ((not)) be considered a violation if the second of the approved NSAIDs is ((not)) over the secondary threshold as follows:

(i) Phenylbutazone - ((+)) 0.3 mcg per milliliter;

(ii) Flunixin - 3 ng per milliliter;

(iii) Ketoprofen - 1 ng per milliliter.

(d) Any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAIDs must be discontinued at least forty-eight hours before the post time for the race in which the horse is entered.

(2) Any horse to which a NSAID has been administered is subject to having a blood and/or urine sample(s) taken at the direction of an official veterinarian to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s).

**WSR 18-03-140
PROPOSED RULES
HORSE RACING COMMISSION**

[Filed January 22, 2018, 11:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-17-067.

Title of Rule and Other Identifying Information: WAC 260-70-630 Threshold levels.

Hearing Location(s): On March 9, 2018, at 9:30 a.m., at the Auburn City Council Chambers, 25 West Main, Auburn, WA 98002.

Date of Intended Adoption: March 9, 2018.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, email doug.moore@whrc.state.wa.us, fax 360-549-6461 [360-459-6461], by March 2, 2018.

Assistance for Persons with Disabilities: Contact Patty Brown, phone 360-459-6462, fax 360-459-6461, email patty.brown@whrc.state.wa.us, by March 6, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend threshold levels on approved therapeutic substances to recommended model rule standards.

Reasons Supporting Proposal: Based on scientific research the threshold levels will be amended to ARCI and RMTC recommended levels. This both protects the horse and ensures that is [it] does not compete with performance altering levels of therapeutic substances in its system.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

January 22, 2018
Douglas L. Moore
Executive Secretary

AMENDATORY SECTION (Amending WSR 17-07-053, filed 3/10/17, effective 4/10/17)**WAC 260-70-630 Threshold levels.** (1) Permitted medications.

(a) The following quantitative medications and/or metabolites are permissible in test samples up to the stated concentrations in urine:

Acetromazine - 10 ng/ml

Albuterol - 1 ng/ml

Bupivacaine - 5 ng/ml

Butorphanol - 300 ng/ml

Carboxydetomidine - 1 ng/ml

Clenbuterol - 140 pg/ml (in quarter horse and mixed breed races the presence of clenbuterol is prohibited)

Mepivacaine - 10 ng/ml

Promazine - 25 ng/ml

Pyrilamine - 25 ng/ml

(b) The following quantitative medications and/or metabolites are permissible in test samples up to the stated concentrations in serum or plasma:

Betamethasone - 10 pg/ml

Butorphanol - 2 ng/ml

Clenbuterol - ((25 pg/ml (in quarter horse and mixed breed races the presence of clenbuterol is prohibited))) Limit of detection

Cetirizine - 6 ng/ml

Cimetidine - 400 ng/ml

Dantrolene - 100 pg/ml
 Detomidine - 1 ng/ml
Dexamethasone - ((.5 ng/ml)) 5 pg/ml
 Diclofenac - 5 ng/ml
 DMSO - 10 mcg/ml
 Firocoxib - 20 ng/ml
 Glycопryrrolate - 3 pg/ml
 Guaiifenesin - 12 ng/ml
 Isoflupredone - 100 pg/ml
 Lidocaine - 20 pg/ml
 Methocarbamol - 1 ng/ml
Methylprednisolone - ((400)) 100 pg/ml
 Omeprazole - 10 ng/ml
 Prednisolone - 1 ng/ml
 *Procaine penicillin - 25 ng/ml
 Ranitidine - 40 ng/ml
 Triamcinolone acetonide - 100 pg/ml
 Xylazine - 200 pg/ml

- * Administration of procaine penicillin to those horses entered must be reported to the commission and may require surveillance up to six hours prior to post time.

(c) Hair samples in pre- or post-race testing for quarter horses and mixed breed races may not be found to contain clenbuterol, ractopamine, zilpaterol, or albuterol in any concentration.

(d) Where a permitted medication has thresholds in both urine and serum or plasma, as set forth in this section, it is not a defense to a violation that the permitted medication does not exceed both thresholds.

(2) Environmental substances.

(a) Certain substances can be considered "environmental" in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination or exposure during the cultivation, processing, treatment, storage, or transportation phases. Certain drugs are recognized as substances of human use and could therefore be found in a horse. The following substances are permissible in test samples up to the stated concentrations:

Arsenic - 0.3 mcg/ml urine
 Caffeine - 100 ng/ml serum or plasma
 Cobalt - 50 ppb serum or plasma*

- * A level of 25 ppb in serum or plasma will result in the horse being placed on the official veterinarians list until such time as the level drops below the 25 ppb.

Benzoyllecgonine - 50 ng/ml urine

Estranediol - 0.045 mcg/ml free + conjugated (5a-oes-trane-3 β ,17a-diol), in the urine of male horses, other than geldings

Gamma Aminobutyric Acid (GABA) - 110 ng/ml in serum or plasma

Hydrocortisone - 1 mcg/ml urine

Methamphetamine - 10 ng/ml

Methoxytyramine - 4 mcg/ml, free + conjugated urine

Morphine Glucuronides - 50 ng/ml urine

Salicylate salicylic acid - 750 mcg/ml serum or plasma

Theobromine - 2 mcg/ml urine

Tramadol - 50 ng/ml urine

(b) If a preponderance of evidence presented shows that a positive test is the result of environmental substance or inadvertent exposure due to human drug use, that evidence should be considered as a mitigating factor in any disciplinary action taken against the trainer.

(3) Androgenic-anabolic steroids.

(a) The following androgenic-anabolic steroids are permissible in test samples up to the stated concentrations:

Boldenone (Equipoise) - 15 ng/ml urine in intact males - 1 ng/ml in urine for geldings, fillies or mares.

Nandrolone (Durabolin) - 1 ng/ml urine in geldings, fillies, and mares, and for nandrolone metabolite (5a-oestrane-3 β ,17a-diol) - 45 ng/ml urine in intact males.

Testosterone - 20 ng/ml urine in geldings. 55 ng/ml urine in fillies and mares. Samples from intact males will not be tested for the presence of testosterone.

(b) All other androgenic-anabolic steroids are prohibited in race horses.

WSR 18-03-142

PROPOSED RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Filed January 22, 2018, 11:56 a.m.]

Supplemental Notice to WSR 17-17-106 on August 18, 2017.

Preproposal statement of inquiry was filed as WSR 17-13-085 on June 17, 2017.

Title of Rule and Other Identifying Information: The department is amending WAC 220-340-070 to better clarify the application process for geoduck diver licenses.

Hearing Location(s): On April 13-14, 2018, at 8:00 a.m., at the Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA 98501.

Date of Intended Adoption: April 14, 2018.

Submit Written Comments to: Scott Bird, Washington Department of Fish and Wildlife (WDFW), Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, email Rules.Coordinator@dfw.wa.gov, fax 360-902-2155, by April 12, 2018.

Assistance for Persons with Disabilities: Contact Delores Noyes, phone 360-902-2349, TTY 360-902-2207, email Delores.Noyes@dfw.wa.gov, by April 12, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending WAC 220-340-070 to better clarify the application process for geoduck diver licenses.

Reasons Supporting Proposal: The current process described in WAC 220-340-070 for applying for new geoduck divers licenses is ambiguous and requires modification.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

Statute Being Implemented: None.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Trisha Anderson, 1111 Washington Street, Olympia, WA 98501, 360-902-2211; Implementation: Peter Vernie, 1111 Washington Street, Olympia, WA 98501, 360-902-2302; and Enforcement: Chief Steve Bear, 1111 Washington Street, Olympia, WA 98501, 360-902-2373.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule changes do not affect hydraulics.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

January 22, 2018
Scott Bird
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-340-070 Commercial geoduck harvest—Geoduck diver license application and issuance process.

(1) ((The department will not consider incomplete applications for a geoduck diver license.)) The following information is required to apply for or renew a geoduck diver license:

- (a) A complete, legible, and signed application form;
- (b) The application and license fees as provided in RCW 77.65.440;

(i) Applicants renewing a geoduck diver license must submit the completed application, application fee and license fee by December 31st;

(ii) New geoduck diver license applicants and renewing applicants who missed the December 31st deadline must submit the completed application and only the application fee by January 10th. The license fee will be required within forty-eight hours if the individual is selected.

(c) ((Proof of)) Completion of the department of natural resources (DNR) geoduck diver safety program to be verified by the department of fish and wildlife (DFW) with DNR; ((and))

(d) ((For applications to renew only, a copy of a)) All applicants must be on a DNR geoduck harvest agreement plan of operation ((that lists the applicant on the agreement)) during the applicable current calendar year and be verified by the department with DNR on an annual basis; and

(e) The department will not consider incomplete applications for a geoduck diver license.

(2) No more than 77 geoduck diver licenses may be issued per calendar year.

(3) Applicants may submit applications to the department:

(a) By mailing to ((600 Capitol Way N., Olympia, WA 98504-1091)) P.O. Box 43154, Olympia, WA 98504-1091;

(b) By faxing to 360-902-2945; or

(c) In person at the ((WDFW)) DFW licensing front desk, first floor, natural resources building at 1111 Washington St. S.E., Olympia, WA 98501 during licensing window hours.

(4) The department ((must receive applications to renew a geoduck diver license by December 31st of the year the licensee's current geoduck diver license expires)) will renew any geoduck diver license if all requirements listed in subsection (1) of this section are met by December 31st. If less than 77 geoduck diver licenses have been issued after the department approves all qualifying applications to renew a geoduck diver license, then the department will issue additional licenses, up to the 77 geoduck diver license limit, to ((qualified)) new geoduck diver license applicants ((in the order they are received). If the department receives more than one application for a geoduck diver license in a calendar day, and issuing licenses to all applicants received in that calendar day would exceed 77 geoduck diver licenses, the department will conduct a random drawing among the applications received that calendar day to determine which of the applications received in that calendar day will be issued a geoduck diver license)) and renewing applicants who missed the December 31st deadline. The department will complete the following process for issuing licenses to new geoduck diver license qualified applicants and renewing applicants who missed the December 31st deadline:

(a) New geoduck diver license applicants and renewing applicants who missed the December 31st deadline will be eligible if all requirements listed in subsection (1) of this section are met by January 10th. A drawing will be held ten business days after January 10th for all eligible new applicants.

(b) After the initial drawing, if there are remaining licenses available up to the 77 geoduck diver license limit, then the department will issue licenses to new geoduck diver applicants and renewing applicants who missed the December 31st deadline based on the calendar date the application is received on a first-come first-serve basis. In the event there are multiple applications received on the same calendar day that exceed the quantity of remaining licenses, a drawing will be held to issue the remaining licenses.

WSR 18-03-143
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed January 22, 2018, 12:04 p.m.]

Supplemental Notice to WSR 17-15-070.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 246-811-990 Chemical dependency professional and chemical dependency professional trainee—Fees and renewal cycle, proposing increases in application and renewal fees, adjustments to standardize other related fees, and formatting updates.

Hearing Location(s): On March 1, 2018, at 1:00 p.m., at the Department of Health, Town Center 2, 111 Israel Road, Room 158, Tumwater, WA 98501.

Date of Intended Adoption: March 8, 2018.

Submit Written Comments to: Sherry Thomas, P.O. Box 47850, Olympia, WA 98504-7850, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by March 1, 2018.

Assistance for Persons with Disabilities: Contact Sherry Thomas, phone 360-236-4612, TTY 360-833-6388 or 711, email sherry.thomas@doh.wa.gov, by February 22, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Current licensing fees do not generate sufficient revenue to cover the cost of administering the licensing program and its budget is in a large deficit. The department is proposing to increase application and renewal fees for chemical dependency professionals (CDP) by thirty-one percent. The department initially filed proposed rules to increase fees for CDPs and chemical dependency professional trainees (CDPT) by fifty percent as part of a group of fee increases (filed as WSR 17-15-070). However, comments in opposition stated the fee increases would be a major deterrent to licensure at a time when Washington state needs more providers to respond to the opioid epidemic and mental health/substance use disorder treatment integration. The department is also proposing adjustments to standardize fees for late renewal, verification of credentials, and duplicate credentials, and formatting updates.

Reasons Supporting Proposal: RCW 43.70.250 requires the cost of each licensing program to be fully borne by the profession's members and licensing fees to be based on licensure costs. The proposed fee increases are anticipated to allow this program's revenues to align more closely with current and projected expenses and to significantly reduce the program's fund balance deficit over time. The department has further evaluated alternatives to the fifty percent increase proposed to CDPs and CDPTs and determined the best alternative to keep the program self-supporting without negatively impacting the number of practitioners is to propose maintenance of the current CDPT fees along with a more modest increase for CDPs of thirty-one percent. The department will then closely monitor the program's budget to determine if future adjustments are needed. The proposed increases are expected to improve the program's ending fund balance, but not to eliminate the deficit. The other fee adjustments will create consistency in the fees for functions that require similar staff time to complete across professions.

Statutory Authority for Adoption: RCW 43.70.250 and 43.70.280.

Statute Being Implemented: RCW 43.70.250 and 43.70.280.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sherry Thomas, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4612.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

January 22, 2018
John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 09-14-111, filed 6/30/09, effective 7/1/09)

WAC 246-811-990 Chemical dependency professional and chemical dependency professional trainee—Fees and renewal cycle. (1) A chemical dependency professional (CDP) certificate must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) A chemical dependency professional trainee (CDPT) certificate must be renewed every year to correspond with issuance date.

(3) The following nonrefundable fees will be charged for a certified chemical dependency professional:

Title of Fee	Fee
Application	\$((200.00)) <u>260.00</u>
Initial certification	((225.00)) <u>295.00</u>
<u>Active</u> renewal	((230.00)) <u>300.00</u>
<u>Active</u> late renewal penalty	<u>150.00</u>
((Renewal)) Retired active renewal	115.00
Retired active late renewal ((retired active)) penalty	((57.50)) 60.00
((Late renewal penalty))	115.00
Expired certification reissuance	115.00
Duplicate certification	10.00
((Certification)) Verification of certificate	((10.00)) <u>25.00</u>

(4) The following nonrefundable fees will be charged for a certified chemical dependency professional trainee:

Title of Fee	Fee
Application and initial certification	\$110.00
Renewal	90.00
Late renewal penalty	50.00

Title of Fee	Fee
Expired certification reissuance	50.00
Duplicate certification	((+5.00)) <u>10.00</u>
((Certification)) Verification of certificate	((+5.00)) <u>25.00</u>

WSR 18-03-145
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed January 22, 2018, 12:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-20-109 on October 4, 2017.

Title of Rule and Other Identifying Information: Amendments to chapter 220-660 WAC, Hydraulic code rules.

Hearing Location(s): On March 16-17, 2018, at 8:00 a.m., at North Wenatchee Avenue, Wenatchee, Washington 98801.

Date of Intended Adoption: April 20, 2018.

Submit Written Comments to: Randi Thurston, P.O. Box 43234, Olympia, WA 98504-3234, email HPARules@dfw.wa.gov, fax 360-902-2946, by March 17, 2018.

Assistance for Persons with Disabilities: Contact Delores Noyes, phone 360-902-2349, TTY 360-902-2207, email Delores.Noyes@dfw.wa.gov, by March 17, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington department of fish and wildlife (WDFW) proposes to amend sections in chapter 220-660 WAC, Hydraulic code rules. These rules regulate aspects of construction projects in state waters for the protection of fish life. The purpose of this rule making is to incorporate statutory changes, accommodate other changed conditions to protect fish life, or respond to requests by customers and other interested parties for improved clarity.

WDFW's primary objective for initiating rule making at this time is to adopt emergency rule (WSR 17-22-013) modifying authorized work times under WAC 220-660-300 for the Sultan River as a permanent rule.

Other subjects WDFW has identified for rule making include the following:

- Consistency with chapter 77.55 RCW with respect to the curtailment of application fees (WAC 220-660-050);
- Ensure authorized work times in WAC 220-660-300 are based on the best available science;
- Update the department's mailing address published in WAC 220-660-460 and 220-660-470; and
- Make other essential changes to WAC 220-660-050 and 220-660-300 that clarify language or accommodate administrative changes.

The rule making as proposed will amend the following sections:

WAC 220-660-050 Procedures, 220-660-300 Mineral prospecting, 220-660-460 Informal appeals, and 220-660-470 Formal appeals.

Hydraulic code rules in chapter 220-660 WAC are significant legislative rules under RCW 34.05.328.

Note that a proposal for changes to authorized work times in WAC 220-660-300(7) for the Lower Columbia River mainstem were removed from this package after the preproposal statement of inquiry (CR-101) and before prefilings outreach occurred because the proposal requires additional technical development and stakeholder collaboration.

Reasons Supporting Proposal: WDFW's primary objective for initiating rule making at this time is to adopt an emergency rule (WSR 17-14-079) as a permanent rule, modifying authorized work times under WAC 220-660-300(7) for the Sultan River.

Other objectives WDFW has identified for this rule-making activity include the following:

- Provide consistency with chapter 77.55 RCW regarding the curtailment of application fees (WAC 220-660-050);
- Ensure authorized work times in WAC 220-660-300(7) are based on the best available science;
- Update the department's mailing address published in WAC 220-660-460 and 220-660-470; and
- Make other changes to 220-660-050 and 220-660-300 that clarify language or accommodate administrative changes without changing the intent of the rules.

WDFW extensively analyzed proposed rule changes prior to filing a preproposal statement of inquiry. We considered goals and objectives of the authorizing statutes as well as objectives for rule making at this particular time. Throughout development of the proposed rule changes, and as part of pre-filing outreach, WDFW considered alternatives to rule making as well as alternative rule language for each element determined to require amendment. Elements that did not meet the specific objectives for this rule-making activity or for which alternatives could be found, were placed on hold and not included in this CR-102 package of proposed rule changes. WDFW anticipates future rule change activities will occur until all the modifications initially identified by the department as necessary can be brought through the rule-making process. We think this is a more efficient and less burdensome approach than waiting to conduct an overhaul of all the hydraulic code rules at once, as was necessary back in 2014.

After considering all these aspects of the decision to propose rule amendments, WDFW determined that the proposed rule represents the minimum set of rule changes required to meet rule-making objectives at this time.

Statutory Authority for Adoption: RCW 77.04.012, directs the department to preserve, protect, perpetuate, and manage fish life.

RCW 77.04.020 grants the fish and wildlife commission the authority to delegate to the director any of the powers and duties vested in the commission.

RCW 77.12.047 grants the fish and wildlife commission authority to adopt, amend, or repeal rules necessary to carry out Title 77 RCW.

RCW 77.55.021 charges WDFW with approving the adequacy of means proposed for protection of fish life in association with the construction of a hydraulic project and authorizes formal and informal appeals.

RCW 77.55.091 prescribes that WDFW establish rules for small scale prospecting and mining.

RCW 77.55.051 and [77.55.]081 authorize the removal or control of aquatic noxious weeds [weeds] through rules published in a pamphlet format.

RCW 34.05.328 identifies rules implementing chapter 77.55 RCW as significant legislative rules.

RCW 34.05.350 compels the department to actively undertake procedures to adopt emergency rules as permanent.

Statute Being Implemented: Chapter 77.55 RCW, Construction projects in state waters.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WDFW, habitat program, protection division, governmental.

Name of Agency Personnel Responsible for Drafting: Teresa Scott, 1111 Washington Street, Olympia, WA 98501, 360-902-2713; Implementation: Randi Thurston, 1111 Washington Street, Olympia, WA 98501, 360-902-2602; and Enforcement: Chief Steve Bear, 1111 Washington Street, Olympia, WA 98501, 360-902-2373.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Randi Thurston, P.O. Box 43234, Olympia, WA 98504-3234, phone 360-902-2602, fax 360-902-2946, TTY 360-902-2207, email HPARules@dfw.wa.gov, hydraulic project approval (HPA) rule-making web site <http://wdfw.wa.gov/licensing/hpa/rulemaking/>.

The preliminary cost-benefit analysis is contained in the 2018 hydraulic code rule change proposals - preliminary regulatory analyses document that also contains the least burdensome alternative analysis, Regulatory Fairness Act compliance discussion, and significant legislative rule procedural requirements. This document is available at the HPA rule-making web site <http://wdfw.wa.gov/licensing/hpa/rulemaking/>.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to

agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Proposed rule does not affect small businesses.

January 22, 2018
Scott Bird
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-050 Procedures—Hydraulic project approvals. (1) Description:

(a) There are six categories of HPAs: Standard, emergency, imminent danger, chronic danger, expedited, and pamphlet. These categories are discussed in more detail throughout this section. Most HPAs issued by the department are standard HPAs. Guidance for applying for an HPA is provided on the department's web site.

(b) HPAs do not exempt a person from obtaining other necessary permits and following the rules and regulations of local, federal, and other Washington state agencies.

(2) **Fish life concerns:** Construction and other work activities in or near water bodies can kill or injure fish life directly and can damage or destroy habitat that supports fish life. Damaged or destroyed habitat can continue to cause lost fish life production for as long as the habitat remains altered. HPAs help ensure construction and other work is done in a manner that protects fish life.

(3) Standard HPA:

(a) The department issues a standard HPA when a hydraulic project does not qualify for an emergency, imminent danger, chronic danger, expedited or pamphlet HPA. An individual standard HPA is limited to a single project site. Some special types of standard HPAs may cover multiple project sites.

(b) Special types of standard HPAs:

(i) Fish habitat enhancement project (FHEP) HPA.

(A) Projects must satisfy the requirements in RCW 77.55.181(1) to be processed as a fish habitat enhancement project.

(B) Projects that are compensatory mitigation for a development or other impacting project are not eligible. This includes proposals for mitigation banks or in-lieu fee mitigation proposals. The sole purpose of the project must be for fish habitat enhancement.

(C) The department may reject an FHEP proposed under RCW 77.55.181 if the local government raises concerns during the comment period that impacts from the project cannot be mitigated by conditioning the HPA. The department will reject an FHEP if the department determines that the size and the scale of the project raises public health or safety concerns. If the department rejects a project for streamlined processing, the department must provide written notice to the applicant and local government within forty-five days of receiving the application.

(D) An applicant whose fish habitat enhancement project is rejected may submit a new complete written application

with project modifications or additional information required for streamlined processing. An applicant may request that the department consider the project under standard HPA processing procedures by submitting a new complete written application for standard processing.

(ii) Multisite HPA.

(A) A standard HPA may authorize work at multiple project sites if:

(I) All project sites are within the same water resource inventory area (WRIA) or tidal reference area;

(II) The primary hydraulic project is the same at each site so there is little variability in HPA provisions across all sites; and

(III) Work will be conducted at no more than five project sites to ensure department staff has sufficient time to conduct site reviews.

(B) The department may make an exception for projects the department has scoped prior to application submittal or when no prepermit issuance site visits are needed.

(iii) General HPA.

(A) The department may issue general HPAs to government agencies, organizations, or companies to perform the same work in multiple water bodies across a large geographic area.

(B) To qualify for a general HPA, projects must protect fish life:

(I) Technical provisions in the HPA must fully mitigate impacts to fish life;

(II) The projects must be relatively simple so that the HPA provisions are the same across all sites, and can therefore be permitted without site-specific provisions; and

(III) The projects must have little or no variability over time in site conditions or work performed.

(C) The general HPA will include a requirement that notice be given to the department when activities utilizing heavy equipment begin. The department may waive this requirement if the permittee and department meet annually to review scheduled activities for the upcoming year.

(D) The department and the applicant may negotiate the scope and scale of the project types covered. The department and the applicant must agree on the fish protection provisions required before the application is submitted.

(E) The department may reject applications for a general HPA if:

(I) The proposed project does not meet the eligibility requirements described in subsection (3)(b)(iii)(B) of this section; or

(II) The department and the applicant cannot agree on the fish protection provisions.

(F) The department must provide written notice of rejection of a general HPA application to the applicant. The applicant may submit a new complete written application with project modifications or additional information required for department consideration under standard HPA processing procedures.

(iv) "Model" HPA.

(A) The department will establish a "model" HPA application and permitting process for qualifying hydraulic projects. To qualify, an individual project must comply with the

technical provisions established in the application. Hydraulic projects that qualify for the model process must:

(I) Fully mitigate impacts to fish life in the technical provisions of the HPA;

(II) Be a low complexity project that minimizes misinterpretation of the HPA provisions allowing the HPA to be permitted without site-specific provisions; and

(III) Meet all of the eligibility requirements described in the model application.

(B) If needed to confirm project eligibility, the department may conduct a site visit before approving or rejecting a model application.

(C) The department may reject applications for model HPAs if:

(I) The plans and specifications for the project are insufficient to show that fish life will be protected; or

(II) The applicant or authorized agent does not fill out the application completely or correctly.

(D) The department must provide written notice of rejection of an application to the applicant. The applicant may submit a new complete written application with project modifications or additional information required for department consideration under standard HPA processing procedures under this section, or may submit a new model application if the department rejected the application because the person did not fill out the original application correctly.

(4) Emergency HPA:

(a) Declaring an emergency.

(i) Authority to declare an emergency, or continue an existing declaration of emergency, is conveyed to the governor, the department, or to a county legislative authority by statute. An emergency declaration may be made when there is an immediate threat to life, the public, property, or of environmental degradation;

(ii) The county legislative authority must notify the department, in writing, if it declares an emergency;

(iii) Emergency declarations made by the department must be documented in writing;

(iv) When an emergency is declared, the department must immediately grant verbal approval upon request for work to protect life or property threatened by waters of the state because of the emergency, including repairing or replacing a stream crossing, removing obstructions, or protecting stream banks. The department may also grant written approval if the applicant agrees.

(b) If the department issues a verbal HPA, the department must follow up with a written HPA documenting the exact provisions of the verbal HPA within thirty days of issuing the verbal HPA.

(c) Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for emergency HPAs.

(d) The department may require a person to submit an as-built drawing within thirty days after the hydraulic project authorized in the emergency HPA is completed.

(e) Within ninety days after a hydraulic project authorized in an emergency HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

(5) Imminent danger HPA:

(a) Authority to declare imminent danger is conveyed to the department or county legislative authority by statute. The county legislative authority must notify the department in writing if it determines that an imminent danger exists.

(b) Imminent danger declarations made by the department must be documented in writing.

(c) When imminent danger exists, the department must issue an expedited HPA upon request for work to remove obstructions, repair existing structures, restore banks, and to protect fish life or property.

(d) When imminent danger exists, and before starting work, a person must submit a complete written application to the department to obtain an imminent danger HPA. Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for imminent danger HPAs.

(e) Imminent danger HPAs must be issued by the department within fifteen calendar days after receiving a complete written application. Work under an imminent danger HPA must be completed within sixty calendar days of the date the HPA is issued.

(f) Within ninety days after a hydraulic project authorized in an imminent danger HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

(6) Chronic danger HPA:

(a) The department must issue a chronic danger HPA upon request for work required to abate the chronic danger. This work may include removing obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish life, or protecting property.

(b) Authority to declare when a chronic danger exists is conveyed to a county legislative authority by statute. A chronic danger is a condition in which any property, except for property located on a marine shoreline, has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway.

(c) The county legislative authority must notify the department in writing when it determines a chronic danger exists.

(d) When chronic danger is declared, and before starting work, a person must submit a complete written application to the department to obtain a chronic danger HPA. Unless the project also satisfies the requirements for fish habitat enhancement projects identified in RCW 77.55.181 (1)(a)(ii), compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is required. Projects that meet the requirements in RCW 77.55.181 (1)(a)(ii), will be processed under RCW 77.55.181(3), and the provisions of chapter 43.21C RCW will not be required.

(7) Expedited HPA:

(a) The department may issue an expedited HPA when normal processing would result in significant hardship for the applicant or unacceptable environmental damage would occur.

(b) Before starting work, a person must submit a complete written application to the department to obtain an HPA.

(c) Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for expedited HPAs. The department must issue expedited HPAs within fifteen calendar days after receipt of a complete written application. Work under an expedited HPA must be completed within sixty calendar days of the date the HPA is issued.

(d) Within ninety days after a hydraulic project authorized in an expedited HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

(8) Pamphlet HPA:

(a) There are two pamphlet HPAs, *Gold and Fish* and *Aquatic Plants and Fish*, that cover the most common types of mineral prospecting and removing or controlling aquatic plants, respectively. A person must follow the provisions in the pamphlet. If a person cannot follow the provisions, or disagrees with any provision, the permittee must apply for a standard HPA before starting the hydraulic project.

(b) A person must review a pamphlet HPA before conducting the authorized hydraulic project.

(c) When a pamphlet HPA is used, the permittee must have the pamphlet HPA on the job site when conducting work and the pamphlet must be immediately available for inspection by the department upon request.

(d) All persons conducting the project must follow all provisions of the pamphlet HPA.

(e) The department may grant exceptions to a pamphlet HPA only if a person applies for a standard individual HPA for the project.

(f) Pamphlet HPAs do not exempt a person from obtaining other appropriate permits and following the rules and regulations of local, federal, and other Washington state agencies.

(9) How to get an HPA:

(a) How to get a pamphlet HPA: A person can download and save or print a pamphlet HPA from the department's web site. A person may also request a pamphlet HPA from the department either verbally or in writing.

(b) How to get an emergency HPA: Upon an emergency declaration, and before starting emergency work, a person must obtain a verbal or written HPA from the department. A complete written application is not required. However, a person must provide adequate information describing the proposed action. Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act), is not required for emergency HPAs. A person may request a verbal or written emergency HPA from the biologist who issues HPAs for the geographic area where the emergency is located ((during normal business hours,)) Monday through Friday((,)) from 8:00 a.m. to 5:00 p.m. If the biologist cannot be contacted or it is after business hours, a person must contact the emergency hotline at 360-902-2537 to request an emergency HPA.

(c) How to get a standard, expedited, or chronic danger HPA:

(i) A person must submit a complete written application to the department to obtain an HPA unless the project qualifies for one of the following:

(A) A pamphlet HPA, subsection (3) of this section; or

(B) An emergency HPA, subsection (5) of this section.

(ii) When applying for an HPA, a person must submit one of the following application forms to the department:

(A) The electronic online application developed by the department;

(B) The current version of the JARPA;

(C) The current version of the JARPA including the most recent version of the application for streamlined processing of fish habitat enhancement projects when applying for streamlined processing under RCW 77.55.181. These may be submitted to the department as attachments to the online application form;

(D) The most recent version of the model HPA application or other department-approved alternative applications available from the department's public web site; or

(E) The current version of the JARPA if applying for approval of a watershed restoration project under RCW 77.55.171. This may be submitted to the department as an attachment to the online application form.

(iii) A complete application package for an HPA must contain:

(A) A completed application form signed and dated by the applicant, ((landowner)) landowner(s) or landowner ((representative)) representative(s) of any project site or off-site mitigation location, and the authorized agent, if any. Completing and submitting the application forms through the department's online permitting system is the same as providing signature and date, if all documents required during the online application process are submitted to the department. A copy of an easement granted to the applicant by the land-owner that includes an allowance for the department to access the project location(s) and any off-site mitigation location(s) for prepermit or postpermit inspection may be substituted for landowner or landowner representative signature;

(B) Plans for the overall project;

(C) Complete plans and specifications for all aspects of the proposed construction or work waterward of the mean higher high water line in salt water, or waterward of the ordinary high water line in fresh water;

(D) A description of the measures that will be implemented for the protection of fish life, including any reports assessing impacts from the hydraulic project to fish life and habitat that supports fish life, and plans to mitigate those impacts to ensure the project results in no net loss;

(E) For a standard or chronic danger HPA application, a copy of the written notice from the lead agency demonstrating compliance with any applicable requirements of the State Environmental Policy Act under chapter 43.21C RCW, unless otherwise provided for in chapter 77.55 RCW; or the project qualifies for a specific categorical exemption under chapter 197-11 WAC;

(F) Written approval by one of the entities specified in RCW 77.55.181 if the applicant is proposing a fish enhancement project;

(G) ((Payment of the application fee required under chapter 77.55 RCW. This fee must be submitted with the application or paid under a billing agreement established in advance with the department unless the project is one of the following project types that are exempt from the application fee:

(H) Project type approved under pamphlet permits;

(I) Mineral prospecting and mining;

(III) Projects on farm and agricultural land, as defined in RCW 84.34.020;

(IV) Projects reviewed by a department biologist on contract with the applicant; or

(V) Modification of permits issued for projects applied for before July 10, 2012; and

(H) Applicants seeking approval under the farm and agricultural land fee exemption must provide a copy of the county assessor's classification of the property on which the project occurs as farm and agricultural land as that term is defined in RCW 84.34.020.)) For an expedited application, an explanation of why normal processing would result in significant hardship for the applicant or unacceptable environmental damage.

(iv) HPA application submission:

(A) A person must submit the complete application package:

(I) Using the department's online permitting system;

(II) Sending the package via mail to:

Department of Fish and Wildlife

P.O. Box 43234

Olympia, ((Washington)) WA 98504-3234;

(III) Email: HPAapplications@dfw.wa.gov;

(IV) Fax: 360-902-2946;

(V) Uploading to a file transfer protocol site acceptable to the department; or

(VI) ((Hand delivering)) Hand delivering to the department at 1111 Washington Street S.E., Olympia, WA 98504, Habitat Program, Fifth Floor. The department will not accept applications submitted elsewhere or by other than the applicant or authorized agent.

(B) Dimensions of printed documents submitted with the application package may not be larger than eleven inches by seventeen inches. Pages of documents submitted may not be bound except by paper clips or other temporary fastening.

(C) A person must submit applications and supporting documents with a combined total of thirty or more pages as digital files rather than printed documents. All digital files must be in formats compatible with Microsoft Word, Microsoft Excel, or Microsoft Access programs or in PDF, TIFF, JPEG, or GIF formats.

(D) Applications submitted to the habitat program during normal business hours are deemed received on the date the habitat program receives the application. The department may declare applications received by the habitat program after normal business hours as received on the next business day.

(10) Incomplete applications:

(a) Within ten days of receipt of the application, the department must determine whether an application meets the requirements of this section. If the department determines the application does not meet the requirements, the department will provide written or emailed notification of an incomplete application to the applicant or authorized agent. This written or emailed notification must include a description of information needed to make the application complete. The department may return the incomplete application to the applicant

or authorized agent or hold the application on file until it receives the missing information. The department will not begin to process the application until it receives all information needed to complete the application.

(b) The applicant or authorized agent must submit additional information in response to a written notification of incomplete application through the department's online permitting system or to the department's habitat program, Olympia headquarters office. The department will not accept additional information submitted elsewhere or by other than the applicant or authorized agent.

(c) The department may ((not process)) close any application that has been incomplete for more than ((six)) twelve months. The department must provide the applicant or authorized agent with written notification at least one week before closing the application and must provide the option for the applicant or authorized agent to postpone the closure for up to one year. The department must provide the applicant with written notification at the time it closes the application ((expires)). After an application is closed, the applicant or authorized agent must submit a new complete application to receive further consideration of the project.

(11) ((**Refund of application fee:** The application fee is nonrefundable except when the application fee was paid but the proposed project is not a hydraulic project and therefore does not require an HPA, or the project is exempt from the fee. Upon determination that an application qualifies for a refund, the department must issue the refund within one week.))

(12)) Application review period:

(a) Once the department determines an application is complete, the department will provide to tribes and local, state, and federal permitting or authorizing agencies a seven-calendar-day review and comment period. The department will not issue the HPA permit before the end of the review period to allow all interested tribes and agencies to provide comments to the department. The department may consider all written comments received when issuing or provisioning the HPA. The review period is concurrent with the department's overall review period. Emergency, imminent danger, expedited, and modified HPAs are exempt from the review period requirement.

(b) Except for emergency, imminent danger, and expedited HPAs, the department will grant or deny approval within forty-five calendar days of the receipt of a complete written application. The department will grant approval of imminent danger and expedited HPAs within fifteen days of the receipt of a complete written application. The department will grant approval of emergency HPAs immediately upon request if an emergency declaration has been made.

((13)) (c) If the department declares an imminent danger, applicant hardship, or immediate threat regarding an application for expedited or emergency HPA, the department must place written documentation of that declaration and justification for it in the application record prior to issuing the HPA.

(12) Suspending the review period:

(a) An applicant or authorized agent may request a delay in processing a standard HPA. The applicant or authorized agent must submit a written request for the delay through the

department's online permitting system or to the habitat program's Olympia headquarters office. The department may not accept delay requests submitted elsewhere or by a person other than the applicant or authorized agent.

(b) If the department suspends the review period, the department must immediately notify the applicant in writing of the reasons for the delay. The department may suspend the review period (with or without the applicant's concurrence) if:

(i) The site is physically inaccessible for inspection or not in a condition to be evaluated (i.e., snow cover, frozen);

(ii) The applicant or authorized agent remains unavailable or unable to arrange for a field evaluation of the proposed project within ten working days of the department's receipt of the application;

(iii) The applicant or authorized agent submits a written request for a delay;

(iv) The department is issuing a permit for a stormwater discharge and is complying with the requirements of RCW 77.55.161 (3)(b); or

(v) The department is reviewing the application as part of a multiagency permit streamlining effort, and all participating permitting and authorizing agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(c) The department may ((not process)) close any application if the application has been delayed for processing more than ((six)) twelve months for any of the reasons identified in subsection ((13)) (12)(a) or (b) of this section. The department must provide the applicant or authorized agent with written notification at least one week before closing the application and must provide the option for the applicant or authorized agent to postpone the closure for up to one year. The department must provide the applicant with written notification at the time it closes the application ((expires)). After an application is closed, the applicant or authorized agent must submit a new complete application to receive further consideration of the project.

((14)) (13) Issuing or denying a hydraulic project approval:

(a) Protection of fish life is the only grounds upon which the department may deny or provision an HPA, as provided in RCW 77.55.021. The department may not unreasonably withhold or condition approval of a permit. The HPA provisions must reasonably relate to the project and must ensure that the project provides proper protection for fish life. The department may not impose provisions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(b) The department may not deny an emergency, imminent danger, chronic danger, or an expedited HPA, as provided in RCW 77.55.021. In addition, the department may not deny an HPA for a project that complies with the conditions of RCW 77.55.141. However, these projects must meet the mitigation provisions in WAC 220-660-080 and the provisions in WAC 220-660-100 through 220-660-450 that are included in an HPA. The department will deny any other type of HPA or request to change an existing HPA when the project will not protect fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal.

If the department denies approval, the department must provide the applicant with a written statement of the specific reasons why and how the proposed project would adversely affect fish life, as provided in RCW 77.55.021.

(c) The department may place specific time limitations on project activities in an HPA to protect fish life.

(d) The department may require a person to notify the department before construction starts, upon project completion, or at other times that the department deems necessary while the permit is in effect. The department may also require a person to provide periodic written reports to assess permit compliance.

(e) The HPA must contain provisions that allow for minor modifications to the work timing, plans, and specifications of the project without requiring the reissuance of the permit, as long as the modifications do not adversely affect fish life or the habitat that supports fish life. The permittee should contact the habitat program's Olympia headquarters office through email or the department's online permit application system to request a minor modification.

(f) A person may propose or conduct a hydraulic project under an environmental excellence program agreement authorized under chapter 43.21K RCW. These projects must be applied for and permitted under the requirements of chapter 43.21K RCW.

((+5)) (14) Hydraulic project approval expiration time periods:

(a) Except for emergency, imminent danger, expedited, and pamphlet HPAs, the department may grant standard HPAs that are valid for up to five years. The permittee must demonstrate substantial progress on construction of the portion of the project authorized in the HPA within two years of the date of issuance.

(b) Imminent danger and expedited HPAs are valid for up to sixty days, and emergency HPAs are valid for the expected duration of the emergency hydraulic project.

(c) Pamphlet HPAs remain in effect indefinitely until modified or rescinded by the department.

(d) The following types of agricultural hydraulic project HPAs remain in effect without the need for periodic renewal; however, a person must notify the department before starting work each year:

(i) Seasonal work that diverts water for irrigation or stock watering; and

(ii) Stream bank stabilization projects to protect farm and agricultural land if the applicant can show that the problem causing the erosion occurs annually or more frequently. Evidence of erosion may include history of permit application, approval, or photographs. Periodic floodwaters alone do not constitute a problem that requires an HPA.

((+6)) (15) Requesting a time extension, renewal, ((or)) modification, or transfer of a hydraulic project approval:

(a) The permittee may request a time extension, renewal, ((or)) modification, or transfer of an active HPA. Before the HPA expires, the permittee or authorized agent must submit a written request through the department's online permitting system or to the habitat program's Olympia headquarters office. The department may not accept requests for delay, renewal, ((or)) modification, or transfer of an HPA submitted

elsewhere or by a person other than the permittee or authorized agent. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the ((control)) permit number or application identification number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA if requesting a time extension, renewal, or modification, the reason for the requested change, the date of the request, ((payment of the application fee if the request is for a major modification and the original application was subject to an application fee)), and the requestor's signature. Requests for transfer of an HPA to a new permittee or authorized agent must additionally include a signed, written statement that the new permittee or authorized agent agrees to the conditions of the HPA, that they agree to allow the department access to the project location to inspect the project site, mitigation site, or any work related to the project, and that they will not conduct any project activities until the department has issued approval.

(b) Requests for time extensions, renewals, or modifications of HPAs are deemed received on the date received by the department. The department may declare applications submitted to habitat program after normal business hours as received on the next business day.

(c) Within forty-five days of the requested change, the department must approve or deny the request for a time extension, renewal, ((or)) modification ((to)), or transfer of an approved HPA.

(d) Unless the new permittee or authorized agent requests a time extension, renewal, or modification of an approved HPA, the department may change only the name and contact information of the permittee or authorized agent and must not alter any provisions of the HPA except the project or location start dates when granting a transfer.

(e) A permittee may request a modification or renewal of an emergency HPA until the emergency declaration expires or is rescinded. Requests for changes to emergency HPAs may be verbal, but must contain all of the information in (a) of this subsection ((except that modifications requiring an application fee do not require payment of the fee at the time of the request. The department will invoice the permittee upon committing the HPA to writing)).

((+e)) (f) The department must not modify or renew an HPA beyond the applicable five-year or sixty-day periods. A person must submit a new complete application for a project needing further authorization beyond these time periods.

((+f)) (g) The department will issue a letter documenting an approved minor modification(s) and a written HPA documenting an approved major modification(s) or transfer.

((+7)) (16) Modifications of a hydraulic project approval initiated by the department:

(a) After consulting with the permittee, the department may modify an HPA because of changed conditions. The modification becomes effective immediately upon issuance of a new HPA.

(b) For hydraulic projects that divert water for agricultural irrigation or stock watering, or when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the department must show that changed conditions warrant the modification in order to protect fish life.

((e) The department may not charge an application fee for modifications to HPAs initiated by the department.

(18) **Requesting a transfer of a hydraulic project approval:** An HPA is not transferable to another person. A person wishing to conduct a hydraulic project must submit a new complete application package.)

(17) Revoking an HPA.

(a) The department may revoke an HPA under the following conditions:

(i) At the written request of the permittee or authorized agent;

(ii) As the result of an informal or formal appeal decision;

(iii) As the result of a court ruling finding that the department issued the HPA in error;

(iv) Following change of a determination of nonsignificance or mitigated determination of nonsignificance to a determination of significance by a lead agency under chapter 43.21C RCW that applies to the hydraulic project approved by the HPA;

(v) The applicant did not correctly identify compliance with the requirements of chapter 43.21C RCW in the application for an HPA and the department was unaware of the error until after the permit was issued;

(vi) Changed physical or biological conditions at the site of the hydraulic project have occurred before project initiation such that fish life cannot be protected if the project proceeds under the requirements of the existing HPA;

(vii) The permittee has not demonstrated substantial progress on construction of the hydraulic project within two years of the date of issuance as required in RCW 77.55.021

(9)(a). Substantial progress means initiation of work at any of the project locations identified in the HPA;

(viii) Duplicate HPAs have been issued for the same hydraulic project.

(b) The department must provide the permittee or authorized agent with written notification before revoking the HPA.

(c) The department must notify the permittee or authorized agent in writing immediately upon revoking the HPA.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-300 Mineral prospecting. (1) **Description:** Mineral prospecting projects excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment. When prospectors locate valuable minerals through prospecting, they may attempt to recover larger quantities of the minerals using a variety of small motorized equipment, including suction dredges, high bankers, and heavy equipment. The rules in this section apply to using hand-held mineral prospecting tools and small motorized equipment.

(2) **Fish life concerns:** Mineral prospecting and mining activities can harm fish life and habitat that supports fish life.

(a) Direct impacts from mineral prospecting and mining activities may include:

(i) Mortality from the physical effects of disturbing eggs or fry incubating within the bed;

(ii) Mortality from passing vulnerable fish through mineral prospecting equipment; and

(iii) Lower environmental productivity resulting from habitat modifications such as altered stream beds or lowered water quality.

(b) Indirect impacts may include changes in food resources and human disturbances.

(c) The department minimizes impacts of mineral prospecting by restricting the type of mining equipment allowed, limiting excavation zones within streams, and setting allowable timing windows.

(3) General requirements:

(a) A copy of the current *Gold and Fish* pamphlet is available from the department, and it contains the rules that a person must follow when using the pamphlet as the HPA for the mineral prospecting project.

(b) Alternatively, a person may request exceptions to the *Gold and Fish* pamphlet by applying for a standard individual written HPA as described in WAC ((220-660-060)) 220-660-050. The department must deny an HPA when, in the judgment of the department, the project will result in direct or indirect harm to fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal. The department may apply saltwater provisions to written HPAs for tidally influenced areas upstream of river mouths and the mainstem Columbia River downstream of Bonneville Dam.

(c) Nothing in chapter 220-660 WAC relieves a person of the duty to obtain landowner permission and any other required permits before conducting any mineral prospecting activity.

(4) Mineral prospecting in freshwater without timing restrictions:

(a) A person may mineral prospect year-round in all fresh waters of the state, except lakes. A person must follow the rules listed below, but does not need to have the *Gold and Fish* pamphlet on the job site when working in fresh waters of the state.

(b) When mineral prospecting without timing restrictions, a person may use only hand-held mineral prospecting tools and the following mineral prospecting equipment:

(i) Pans;

(ii) Spiral wheels; and

(iii) Sluices, concentrators, mini rocker boxes, and mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment.

(c) A person may not use vehicle-mounted winches. A person may use one hand-operated winch to move boulders or large woody material that is not embedded or located within the wetter perimeter. A person may use additional cables, chains, or ropes to stabilize boulders, or large woody material that is not embedded.

(d) A person may work within the wetted perimeter only from one-half hour before official sunrise to one-half hour after official sunset.

(e) A person may not disturb fish life or redds within the bed. If a person observes or encounters fish life or redds within the bed, or actively spawning fish when collecting or processing aggregate, a person must relocate their operation. A person must avoid areas containing live freshwater mus-

sels. If a person encounters live mussels during excavation, a person must relocate the operation.

(f) Aggregate excavation, collection, and removal:

(i) A person may excavate only by hand or with hand-held mineral prospecting tools.

(ii) A person may not excavate, collect, or remove aggregate from within the wetted perimeter. See Figures 1 and 2.

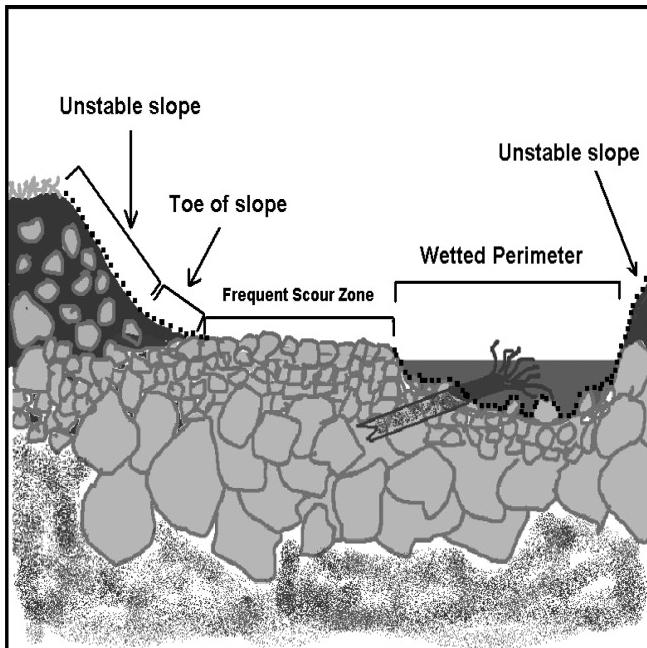


Figure 1: Cross section of a typical body of water, showing areas where excavation is not permitted under rules for mineral prospecting without timing restrictions.

Dashed lines indicate areas where excavation is not permitted.

(iii) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple persons may work within a single excavation site.

(iv) When collecting or excavating aggregate, a person may not stand within, or allow aggregate to enter, the wetted perimeter.

(v) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site. If a person moves boulders, a person must return them, as well as possible, to their original location.

(vi) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person must keep them within the frequent scour zone. A person may not cut large woody material. See Figure 2.

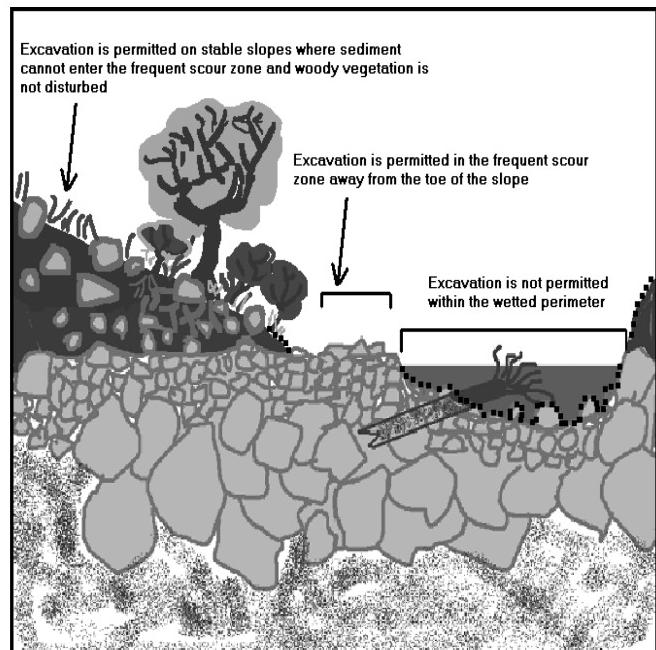


Figure 2: Permitted and prohibited excavation sites in a typical body of water under rules for mineral prospecting without timing restrictions. Dashed lines indicate areas where excavation is not permitted.

(vii) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.

(viii) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver sediment to the wetted perimeter or frequent scour zone. See Figures 3 and 4.

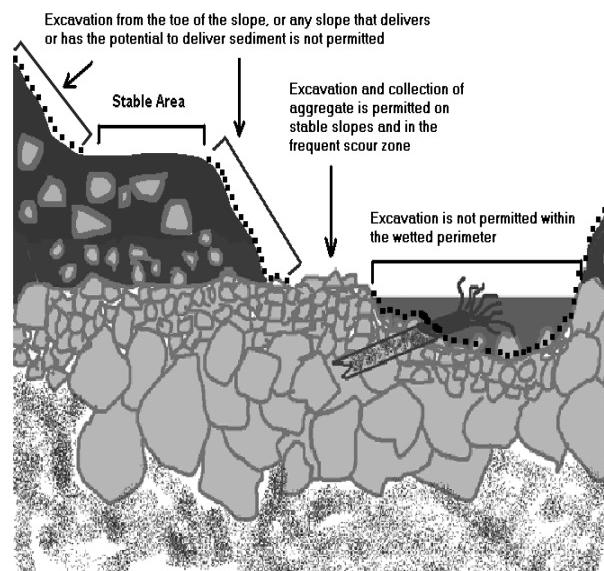


Figure 3: Limits on excavating, collecting, and removing aggregate on stream banks.

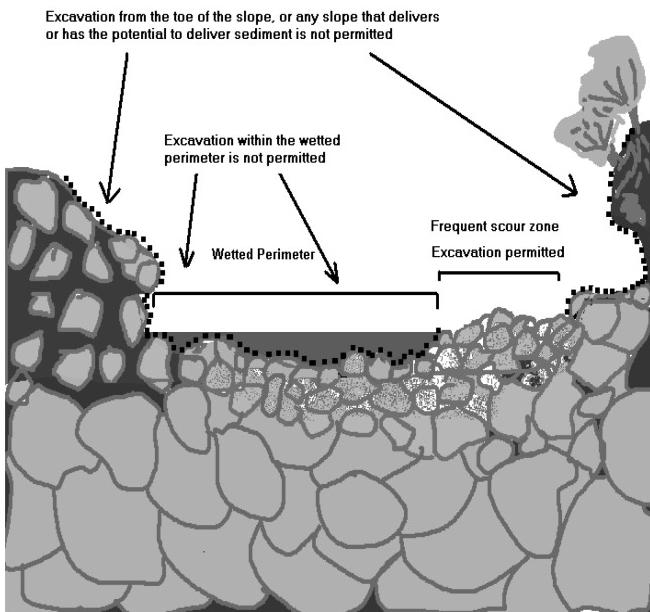


Figure 4: Excavating, collecting and removing aggregate within the wetted perimeter is not permitted.

(g) Processing aggregate:

(i) A person may stand within the wetted perimeter when processing aggregate with pans, spiral wheels, and sluices.

(ii) A person may not stand on or process directly on redds, or disturb incubating fish life. A person may not allow tailings or visible sediment plumes (visibly muddy water) to enter redds or areas where fish life are located within the bed.

(iii) A person may not level or disturb tailing piles that remain within the wetted perimeter after processing aggregate.

(iv) If a person collected or excavated aggregate outside of the frequent scour zone, a person must classify it at the collection or excavation site before processing.

(v) When using a sluice, a person may process only classified aggregate within the wetted perimeter.

(vi) The maximum width of a sluice, measured at its widest point, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.

(vii) A person may process with a sluice only in areas within the wetted perimeter that are composed mainly of boulders and bedrock. A person must separate sluice locations by at least fifty feet. A person may not place structures within the wetted perimeter to check or divert the water flow.

(viii) A person may operate mini high-bankers or other concentrators only outside the wetted perimeter. A person may not allow visible sediment or muddy water to enter the wetted perimeter. A second excavation site may be used as a settling pond.

(ix) As provided in RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than

five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

(x) A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

(xi) A person may not disturb existing fish habitat improvement structures or stream channel improvements.

(xii) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.

(xiii) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately cease operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

(5) Mineral prospecting in fresh waters with timing restrictions:

(a) A person may mineral prospect in fresh waters of the state only during the times and with the mineral prospecting equipment limitations identified in subsection (7) of this section. A person must have the *Gold and Fish* pamphlet on the job site and comply with the provisions listed below.

(b) When mineral prospecting with timing restrictions, a person may use only hand-held mineral prospecting tools and the following mineral prospecting equipment:

- (i) Pans;
- (ii) Spiral wheels;

(iii) Sluices, concentrators, rocker boxes, and high-bankers with riffle areas totaling ten square feet or less, including ganged equipment;

(iv) Suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size. See Figure 5.



Figure 5: Dredge intake nozzle

(v) Power sluice/suction dredge combinations that have riffle areas totaling ten square feet or less, including ganged equipment; suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle; and pump intake hoses with inside diameters of four inches or less. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the nozzle size. See Figure 5; and

(vi) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.

(c) The widest point of a sluice, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.

(d) The suction intake nozzle and hose of suction dredges and power sluice/suction dredge combinations must not exceed the diameters allowed in the listing for the stream or stream reach where a person is operating, as identified in subsection (7) of this section.

(e) A person may not use vehicle-mounted winches. A person may use one motorized winch and one hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

(f) Equipment separation:

(i) A person may use hand-held mineral prospecting tools; pans; spiral wheels; or sluices, mini rocker boxes, or mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment, as close to other mineral prospecting equipment as desired.

(ii) When operating any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), suction dredge, power sluice/suction dredge combination, high-banker, or power sluice within the wetted perimeter, a person's equipment must be at least two hundred feet

from all others also operating this type of equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is actually operating within that two hundred foot radius. See Figure 6.

(iii) When operating any sluice or rocker box with a riffle area larger than three square feet (including ganged equipment), suction dredge, power sluice/suction dredge combination, high-banker, or power sluice outside of the wetted perimeter that discharges tailings or wastewater to the wetted perimeter, a person's equipment must be at least two hundred feet from all others also operating this type of equipment. This separation is measured as a radius from the center of the equipment the person is operating. A person may locate this equipment closer than two hundred feet if only one piece of equipment is actually operating within that two hundred-foot radius. See Figure 6.

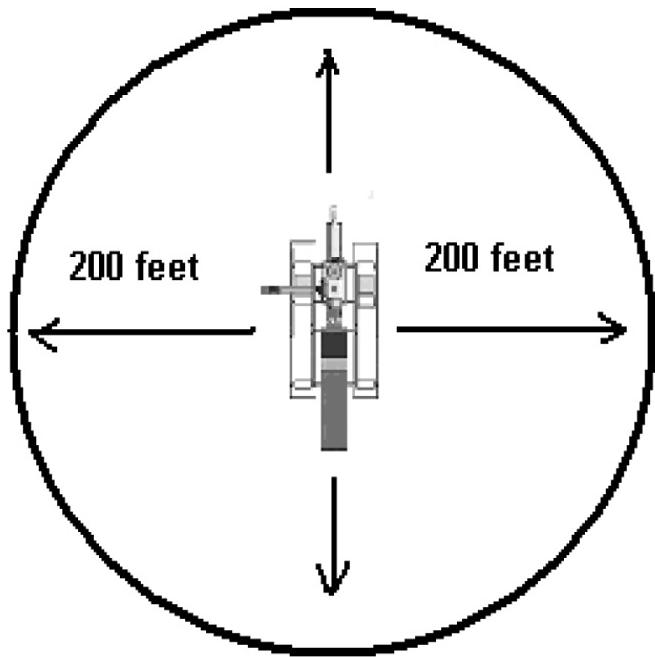


Figure 6: Equipment separation requirement.

(g) As provided in RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

(h) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter or frequent scour zone. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment

from the body of water, and contact the Washington military department emergency management division. A person may not return the equipment to the water until the problem is corrected. A person must store fuel and lubricants outside the frequent scour zone, and in the shade when possible.

(i) A person may work within the wetted perimeter or frequent scour zone only from one-half hour before official sunrise to one-half hour after official sunset. If a person's mineral prospecting equipment exceeds one-half the width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

(j) A person may not excavate, collect, remove, or process aggregate within four hundred feet of any fishway, dam, or hatchery water intake.

(k) A person must not disturb existing fish habitat improvement structures or stream channel improvements.

(l) A person may not undermine, move, or disturb large woody material embedded in the slopes or located wholly or partially within the wetted perimeter. A person may move large woody material and boulders located entirely within the frequent scour zone, but a person must keep them within the frequent scour zone. A person may not cut large woody material.

(m) A person may not undermine, cut, or disturb live, rooted woody vegetation of any kind.

(n) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple individuals may work within a single excavation site.

(o) A person must fill all excavation sites and level all tailing piles before moving to another excavation site or abandoning an excavation site.

(p) A person may not excavate, collect, or remove aggregate from the toe of the slope. A person also may not excavate, collect, or remove aggregate from an unstable slope or any slope that delivers, or might deliver, sediment to the wetted perimeter or frequent scour zone. See Figures 7 and 8.

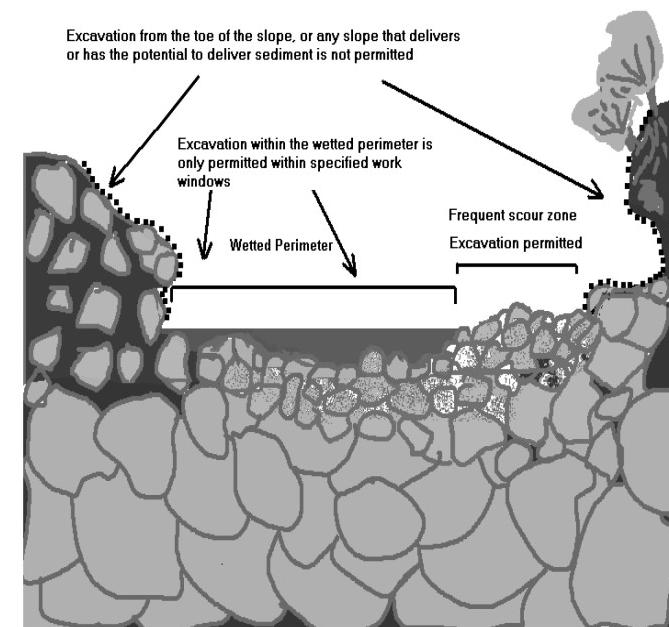


Figure 7: Cross section of a typical body of water showing unstable slopes, stable areas, and permitted or prohibited excavation sites under rules for mineral prospecting with timing restrictions. Dashed line indicates areas where excavation is not permitted.

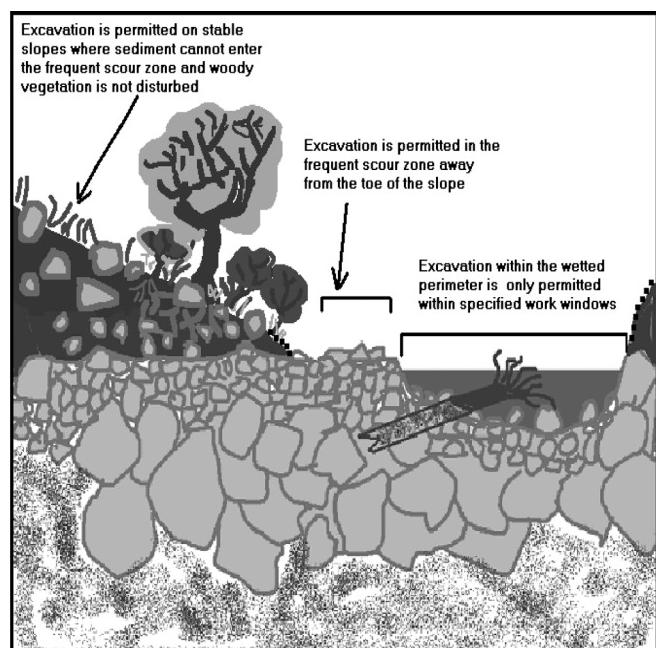


Figure 8: ((Cross section of a typical body of water showing unstable slopes, stable areas, and)) Permitted ((or)) and prohibited excavation sites in a typical body of water under rules for mineral prospecting with timing restrictions. Dashed lines indicate areas where excavation is not permitted.

(q) A person may partially divert a body of water into mineral prospecting equipment. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

(r) A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

(s) A person may process aggregate collected from the frequent scour zone:

(i) At any location if a person uses pans; spiral wheels; mini rocker boxes; mini high-bankers; or sluices or other concentrators with riffle areas three square feet or less, including ganged equipment.

(ii) Only in the frequent scour zone or upland areas landward of the frequent scour zone if a person uses power sluice/suction dredge combinations, high-bankers, or power sluices with riffle areas totaling ten square feet or less, including ganged equipment; or sluices or rocker boxes that have riffle areas larger than three, but less than ten square feet, including ganged equipment. A person may not discharge tailings to the wetted perimeter when using this equipment. However, a person may discharge wastewater to the wetted perimeter if its entry point into the wetted perimeter is at least two hundred feet from any other wastewater discharge entry point.

(t) A person may process aggregate collected from upland areas landward of the frequent scour zone:

(i) At any location if a person uses pans; spiral wheels; or sluices, concentrators, mini rocker boxes, and mini high-bankers with riffle areas totaling three square feet or less, including ganged equipment. A person must classify the aggregate at the excavation site before processing with this equipment within the wetted perimeter or frequent scour zone.

(ii) Only at an upland location landward of the frequent scour zone if a person uses power sluice/suction dredge combinations; high-bankers; power sluices; or rocker boxes. A person may not allow tailings or wastewater to enter the wetted perimeter or frequent scour zone.

(iii) Within the wetted perimeter or frequent scour zone if a person uses a sluice with a riffle area greater than three square feet. A person must classify the aggregate at the excavation site prior to processing with a sluice with a riffle area exceeding three square feet.

(u) A person may use pressurized water only for crevicing or for redistributing dredge tailings within the wetted perimeter. No other use of pressurized water is permitted.

(v) A person may conduct crevicing in the wetted perimeter, in the frequent scour zone, or landward of the frequent scour zone. The hose connecting fittings of pressurized water tools used for crevicing may not have an inside diameter larger than three-quarters of an inch. If a person crevices landward of the frequent scour zone, no sediment or wastewater may be discharged into the wetted perimeter or the frequent scour zone.

(w) A person must avoid areas containing live freshwater mussels. If a person encounters live mussels during excavation, a person must relocate the operation.

(x) A person may not disturb redds. If a person observes or encounters redds or actively spawning fish when collecting or processing aggregate, a person must relocate the operation.

(y) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

(6) Mineral prospecting on ocean beaches:

(a) A person may mineral prospect year-round on ocean beaches of the state. A person must follow the rules listed below, and must have the *Gold and Fish* pamphlet on the job site when working on ocean beaches of the state, except as noted in this subsection.

(b) A person may mineral prospect only between the line of ordinary high tide and the line of extreme low tide on beaches within the Seashore Conservation Area set under RCW 79A.05.605 and managed by Washington state parks and recreation commission.

(c) No written or pamphlet HPA is required to mineral prospect south of the Copalis River, if a person operates landward of the upper limit of ghost shrimp burrowing in the beach; waterward of the ordinary high tide line; and a person does not use fresh water from fish-bearing streams during operations. See Figure 9.

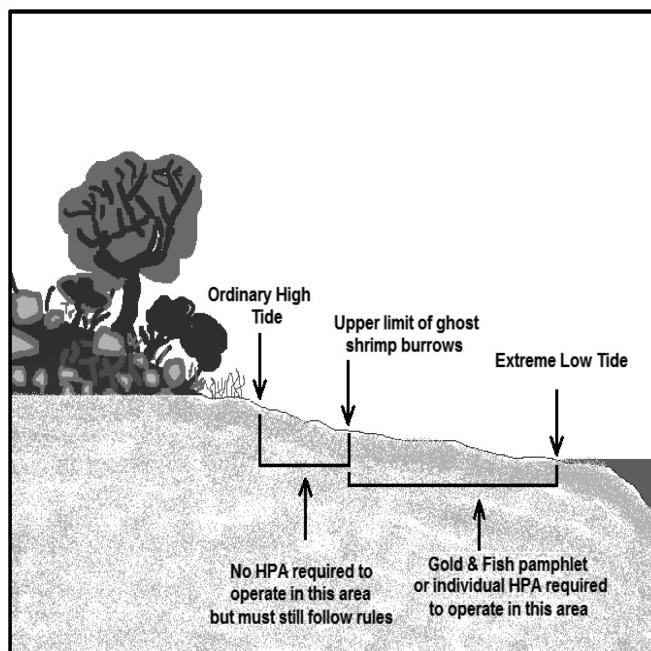


Figure 9. Beach area where no written or pamphlet HPA is required.

(d) A person may use only hand-held mineral prospecting tools and the following mineral prospecting equipment:

(i) Pans;

(ii) Spiral wheels;

(iii) Sluices, concentrators, rocker boxes, and high-bankers with riffle areas totaling ten square feet or less, including ganged equipment;

(iv) Suction dredges that have suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size;

(v) Power sluice/suction dredge combinations that have riffle areas totaling ten square feet or less, including ganged equipment; suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle; and pump intake hoses with inside diameters of four inches or less. The inside diameter of the dredge hose attached to the suction intake nozzle may be no greater than one inch larger than the nozzle size; and

(vi) High-bankers and power sluices that have riffle areas totaling ten square feet or less, including ganged equipment, and pump intake hoses with inside diameters of four inches or less.

(e) When operated in fish-bearing freshwater streams, the widest point of a sluice, including attachments, must not exceed twenty-five percent of the width of the wetted perimeter at the point of placement.

(f) A person may not use vehicle-mounted winches. A person may use one motorized winch and one hand-operated winch to move boulders and large woody material that is not embedded, and additional cables, chains, or ropes to stabilize them.

(g) Under RCW 77.57.010 and 77.57.070, any device a person uses for pumping water from fish-bearing waters must be equipped with a fish guard to prevent fish from entering the pump intake. A person must screen the pump intake with material that has openings no larger than five sixty-fourths inch for square openings, measured side to side, or three thirty-seconds inch diameter for round openings, and the screen must have at least one square inch of functional screen area for every gallon per minute (gpm) of water drawn through it. For example, a one hundred gpm-rated pump would require a screen with a surface area of at least one hundred square inches.

(h) All equipment fueling and servicing must be done so that petroleum products do not enter the wetted perimeter. If a petroleum sheen or spill is observed, a person must immediately stop work, remove the equipment from the body of water and beach, and contact the Washington military department emergency management division. A person may not return the equipment to the water or beach until the problem is corrected. A person must store fuel and lubricants away from the water inside a vehicle or landward of the beach, and in the shade when possible.

(i) A person may work only from one-half hour before official sunrise to one-half hour after official sunset. If a person uses mineral prospecting equipment in a fish-bearing freshwater stream and the equipment exceeds one-half the

width of the wetted perimeter of the stream, a person must remove the equipment from the wetted perimeter or move it so that at least fifty percent of the wetted perimeter is free of equipment from one-half hour after official sunset to one-half hour before official sunrise.

(j) A person may not undermine, cut, disturb, or move embedded large woody material or woody debris jams.

(k) A person may work in only one excavation site at a time. However, a person may use a second excavation site as a settling pond. Multiple persons may work within a single excavation site.

(l) A person must backfill all trenches, depressions, or holes created in the beach during project activities before moving to another excavation site (except during use as a settling pond) or leaving an excavation site.

(m) A person may partially divert a body of water into mineral prospecting equipment. However, at no time may the diversion structure be greater than fifty percent of the width of the wetted perimeter of a fish-bearing freshwater stream, including the width of the equipment. A person may not divert the body of water outside of the wetted perimeter.

(n) A person may use materials only from within the wetted perimeter, or artificial materials from outside the wetted perimeter, to construct the diversion structure by hand. Before abandoning the site, a person must remove artificial materials used to construct a diversion structure and restore the site to its approximate original condition.

(o) A person may use pressurized water only for redistributing dredge tailings within the wetted perimeter. No other use of pressurized water is permitted.

(p) A person may not disturb live razor clams or other shellfish within the bed. If a person observes or encounters live razor clams or other shellfish during excavation, the person must relocate the operation.

(q) If at any time, as a result of project activities, a person observes a fish kill or fish life in distress, a person must immediately stop operations and notify the department, and the Washington military department emergency management division of the problem. A person may not resume work until the department gives approval. The department will require additional measures to mitigate the prospecting impacts.

(7) Authorized work times and mineral prospecting equipment restrictions by specific state waters for mineral prospecting and placer mining projects:

(a) A person may conduct mineral prospecting and placer mining under subsections (5) and (6) of this section only in the state waters, with the equipment restrictions, and during the times specified in the following table of authorized work times.

(b) The general work time for a county applies to all state waters within that county, unless otherwise indicated in the table.

(c) The work time for state waters identified in the table of authorized work times applies to all its tributaries, unless otherwise indicated. Some state waters occur in multiple counties. Check the table for the county in which mineral prospecting or placer mining is to be conducted to determine the work time for that water body.

(d) Where a tributary is identified as a boundary, that boundary is the line perpendicular to the receiving stream

that is projected from the most upstream point of the tributary mouth to the opposite bank of the receiving stream. See Figure 10.

(e) Mineral prospecting and placer mining within water bodies identified in the table of authorized work times as "submit application" are not authorized under the *Gold and Fish* pamphlet. A person must obtain a written individual HPA to work in these water bodies.

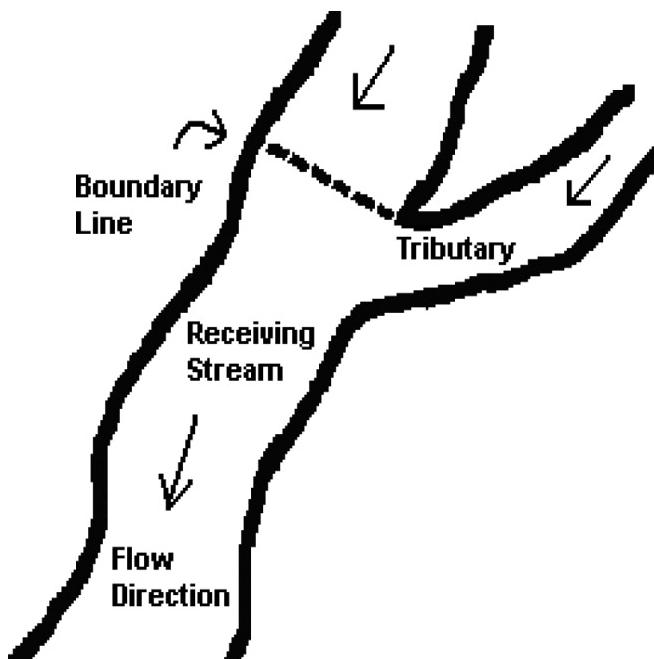


Figure 10: Where the boundary is located if a tributary listed as a boundary.

(f) Mineral prospecting using mineral prospecting equipment that has suction intake nozzles with inside diameters that should be four inches or less, but must be no greater than four and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle, is authorized only in the state waters identified in the table of authorized work times, and any tributaries to them, unless otherwise indicated in the table. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.

(g) Mineral prospecting using mineral prospecting equipment that has suction intake nozzles with inside diameters that should be five inches or less, but must be no greater than five and one-quarter inches to account for manufacturing tolerances and possible deformation of the nozzle is authorized only in the state waters specifically identified in the table of authorized work times. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size. A person may use only mineral prospecting equipment with suction intake nozzle inside diameters of four and one-quarter inches or less in tributaries of these state waters. The inside diameter of the dredge hose attached to the nozzle may be no greater than one inch larger than the nozzle size.

Table 3

Authorized Work Times and Mineral Prospecting Equipment Restrictions by Specific State Waters for Mineral Prospecting and Placer Mining Projects

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Adams County	July 1 - October 31	X	-
Crab Creek (41.0002)	July 16 - February 28	X	X
Esquatzel Creek (36.MISC)	June 1 - February 28	X	X
Palouse River (34.0003)	July 16 - February 28	X	X
Asotin County	July 16 - September 15	X	-
Snake River (35.0002)	See Below	-	-
Alpowa Creek (35.1440)	July 16 - December 15	X	-
Asotin Creek (35.1716)	July 16 - August 15	X	-
Couse Creek (35.2147)	July 16 - December 15	X	-
Grande Ronde River (35.2192)	July 16 - September 15	X	X
Ten Mile Creek (35.2100)	July 16 - December 15	X	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Benton County	June 1 - September 30	X	-
Columbia River	See Below	-	-
Glade Creek (31.0851)	August 1 - September 30	X	-
Yakima River (37.0002)	June 1 - September 15	X	X
Amon Wasteway (37.0009)	June 1 - September 30	X	-
Corral Creek (37.0002)	June 1 - September 30	X	-
Spring Creek (37.0205)	June 1 - September 30	X	-
Chelan County	July 16 - August 15	X	-
Columbia River	See Below	-	-
Antoine Creek (49.0294) - Mouth to falls at river mile 1.0	July 1 - February 28	X	-
Antoine Creek (49.0294) - Upstream of falls at river mile 1.0	July 1 - March 31	X	-
Chelan River (47.0052) - Mouth to Chelan Dam	July 16 - September 30	X	X
Colockum Creek (40.0760)	July 1 - October 31	X	-
Entiat River (46.0042) - Mouth to Entiat Falls	July 16 - July 31	X	X
Entiat River (46.0042) - Upstream of Entiat Falls	July 16 - March 31	X	-
Crum Canyon (46.0107)	July 16 - March 31	X	-
Mad River (46.0125)	July 16 - July 31	X	-
Indian Creek (46.0128)	July 16 - February 28	X	-
Lake Chelan (47.0052)	Submit Application	-	-
Railroad Creek (47.0410)	July 16 - September 30	X	-
Stehkin River (47.0508)	Submit Application	-	-
Twenty-Five Mile Creek (47.0195)	July 16 - September 30	X	-
Other Lake Chelan tributaries outside of North Cascades National Park	July 1 - August 15	X	-
Other Lake Chelan tributaries within North Cascades National Park	Submit Application	-	-
Number 1 Canyon (45.0011)	July 1 - February 28	X	-
Number 2 Canyon (45.0012)	July 1 - February 28	X	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Squilchuck Creek (40.0836) - Mouth to South Wenatchee Avenue	July 1 - September 30	X	-
Squilchuck Creek (40.0836) - Upstream of South Wenatchee Avenue	July 1 - February 28	X	-
Stemilt Creek (40.0808) - Mouth to falls	July 1 - September 30	X	-
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28	X	-
Wenatchee River (45.0030) - Mouth to Hwy 2 Bridge in Leavenworth	July 15 - September 30	X	X
Wenatchee River (45.0030) - Hwy 2 Bridge in Leavenworth to Lake Wenatchee	July 15 - August 15	X	X
Beaver Creek (45.0751)	July 1 - September 30	X	-
Chiwaukum Creek (45.0700)	July 1 - July 31	X	-
Chiwawa River (45.0759) - Mouth to Phelps Creek	July 1 - July 31	X	X
Chiwawa River (45.0759) - Upstream of Phelps Creek	July 1 - July 31	X	-
Deep Creek (45.0764)	July 1 - February 28	X	-
Phelps Creek (45.0875)	July 16 - August 15	X	-
Icicle Creek (45.0474) - Mouth to Johnny Creek	July 1 - July 31	X	X
Icicle Creek (45.0474) - Upstream of Johnny Creek	July 1 - July 31	X	-
Fourth of July Creek (45.0525)	July 1 - February 28	X	-
Lake Wenatchee (45.0030)	Submit Application	-	-
Little Wenatchee (45.0985) - Mouth to Wilderness Boundary	July 1 - July 31	X	X
Little Wenatchee (45.0985) - Upstream of Wilderness Boundary	Submit Application	-	-
White River (45.1116) - Mouth to White River Falls	July 1 - July 31	X	X
White River (45.1116) - Upstream of White River Falls	July 1 - February 28	X	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Nason Creek (45.0888)	July 1 - July 31	X	-
Peshastin Creek (45.0232) - Mouth to ((Negro) <u>Etienne</u> Creek)	July 16 - August 15	X	-
Peshastin Creek (45.0232) - Upstream of ((Negro) <u>Etienne</u> Creek)	August 1 - February 28	X	-
Ingalls Creek (45.0273) - Mouth to Cascade Creek	Submit Application	-	-
Ingalls Creek (45.0273) - Upstream of Cascade Creek	July 16 - February 28	X	-
((Negro) <u>Etienne</u> Creek (45.0323) - Mouth to falls at stream mile 2.9	Submit Application	-	-
((Negro) <u>Etienne</u> Creek (45.0323) - Upstream of falls at stream mile 2.9	July 16 - February 28	X	-
Ruby Creek (45.0318)	July 16 - February 28	X	-
Tronson Creek (45.0346)	August 1 - February 28	X	-
Scotty Creek (45.0376)	August 1 - February 28	X	-
Shaser Creek (45.0365)	August 1 - February 28	X	-
Clallam County	July 16 - September 15	X	-
Clallam River (19.0129)	August 1 - August 15	X	-
Dungeness River (18.0018)	Submit Application	-	-
Independent Creek (18.MISC)	August 1 - August 31	X	-
Elwha River (18.0272)	August 1 - August 15	X	X
Hoko River (19.0148)	August 1 - September 15	X	-
Jimmycomelately Creek (17.0285)	August 1 - August 31	X	-
Lake Ozette (20.0046)	Submit Application	-	-
Little Quilcene River (17.0076)	July 16 - August 31	X	-
Lake Ozette tributaries	July 16 - September 15	X	-
Lyre River (19.0031)	August 1 - September 15	X	-
McDonald Creek (18.0160)	August 1 - September 15	X	-
Morse Creek (18.0185)	August 1 - August 15	X	-
Ozette River (20.0046)	July 16 - September 15	X	-
Pysht River (19.0113)	August 1 - September 15	X	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Quillayute River (20.0096, 20.0162, 20.0175)	August 1 - August 15	X	X
Bogachiel River (20.0162)	Submit Application	-	-
Calawah River (20.0175)	August 1 - August 15	X	X
Salmon Creek (17.0245)	July 16 - August 31	X	-
Sekiu River (19.0203)	August 1 - September 15	X	-
Snow Creek (17.0219)	July 16 - August 31	X	-
Sol Duc River (20.0096)	Submit Application	-	-
Lake Pleasant (20.0313)	Submit Application	-	-
Lake Pleasant tributaries	July 16 - September 15	X	-
Sooes River (20.0015)	July 16 - September 15	X	-
Clark County	July 16 - September 30	-	-
Columbia River	See Below	-	-
Lacamas Creek (28.0160) - Mouth to dam	August 1 - August 31	X	-
Lacamas Creek (28.0160) - Upstream of dam	August 1 - September 30	X	-
Lewis River (27.0168)	August 1 - August 15	X	X
East Fork Lewis River (27.0173) - Mouth to Lucia Falls	August 1 - August 15	X	X
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28	X	X
East Fork Lewis River (27.0173) - Upstream of Sunset Falls	August 1 - February 28	X	-
Lake River (28.0020)	January 1 - December 31	X	X
Burnt Bridge Creek (28.0143)	August 1 - August 31	X	-
Salmon Creek (28.0059)	August 1 - August 31	X	-
Whipple Creek (28.0038)	August 1 - September 30	X	-
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam	August 1 - August 15	X	X
Cedar Creek (27.0339)	August 1 - September 15	X	-
North Fork Lewis River (27.0334) - Merwin Dam to Lower Falls	July 16 - August 15	X	X
Canyon Creek (27.0442)	July 16 - February 28	X	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
North Fork Lewis River (27.0168) - Upstream of Lower Falls	July 16 - August 15	X	X
Washougal River (28.0159) - Mouth to headwaters	August 1 - August 31	X	X
Columbia County	July 16 - September 30	X	-
Touchet River (32.0097)	August 1 - August 15	X	X
Grande Ronde River tributaries (35.2192)	July 16 - August 15	X	-
North Fork Touchet/Wolf Fork (32.0761)	Submit Application	-	-
South Fork Touchet (32.0708)	Submit Application	-	-
Tucannon River (35.0009)	July 16 - August 15	X	X
Walla Walla River (32.0008) - Mouth to Oregon state line	July 16 - September 15	X	X
Mill Creek (32.1436) - Mouth to Oregon state line	August 1 - August 15	X	-
Cowlitz County	July 16 - September 30	X	-
Chehalis River (22.0190/23.0190) - South Fork Chehalis River - Mouth to Fisk Falls	August 1 - August 31	X	X
Chehalis River (22.0190/23.0190) - South Fork Chehalis River - Upstream of Fisk Falls	August 1 - August 31	X	-
Columbia River	See Below	-	-
Abernathy Creek (25.0297)	July 16 - September 15	X	-
Burke Creek (27.0148)	August 1 - August 31	X	-
Burris Creek (27.0151)	August 1 - August 31	X	-
Bybee Creek (27.0142)	August 1 - August 31	X	-
Canyon Creek (27.0147)	August 1 - August 31	X	-
Coal Creek (25.0340)	July 16 - September 15	X	-
Clark Creek (25.0371)	August 1 - August 31	X	-
Cowlitz River (26.0002) - Mouth to barrier dam at river mile 49.5	July 16 - August 15	X	X
Ceweeman River (26.0003) - Mouth to Baird Creek	August 1 - August 31	X	X

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Coweeman River (26.0003) - Upstream of Baird Creek	August 1 - August 31	X	-
Cowlitz River (26.0002) - Tributaries below barrier dam to mouth	July 16 - September 30	X	-
Owl Creek (26.1441)	July 16 - September 15	X	-
Toutle River (26.0227)	July 16 - August 15	X	X
North Fork Toutle River (26.0314) - Mouth to Debris Dam	July 16 - August 15	X	X
North Fork Toutle River (26.0314) - Upstream of Debris Dam	July 16 - August 15	X	-
Green River (26.0323) - Mouth to Shultz Creek	July 16 - September 30	X	X
Green River (26.0323) - Upstream of Shultz Creek	July 16 - September 30	X	-
South Fork Toutle (26.0248) - Mouth to Bear Creek	July 16 - September 15	X	X
South Fork Toutle (26.0248) - Upstream of Bear Creek	July 16 - September 15	X	-
Tributaries to Silver Lake	July 16 - September 30	X	-
Germany Creek (25.0313)	July 16 - September 15	X	-
Kalama River (27.0002) - Mouth to Kalama Falls	August 1 - August 15	X	X
Kalama River (27.0002) - Upstream of Kalama Falls	August 1 - August 15	X	-
Lewis River (27.0168) - Mouth to East Fork Lewis River	August 1 - August 15	X	X
North Fork Lewis River (27.0334) - Confluence of East Fork to Merwin Dam	August 1 - August 15	X	X
North Fork Lewis River (27.0334) - Merwin Dam to Lower Falls	July 16 - August 15	X	X
Mill Creek (25.0284)	July 16 - September 15	X	-
Schoolhouse Creek (27.0139)	August 1 - August 31	X	-
Douglas County	July 1 - September 30	X	-
Columbia River	See Below	-	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Douglas Creek Canyon (44.0146)	May 16 - January 31	X	-
Foster Creek (50.0065)	August 1 - April 15	X	-
McCarteney Creek (44.0002)	July 1 - February 28	X	-
Pine/Corbaley Canyon Creek (44.0779)	September 16 - April 15	X	-
Rock Island Creek (44.0630)	July 1 - September 30	X	-
Ferry County	July 1 - August 31	X	-
Columbia River	See Below	-	-
Kettle River (60.0002)	June 16 - August 31	X	X
Boulder Creek (60.0130) - Mouth to Hodgson Road Bridge	Submit Application	-	-
Boulder Creek (60.0130) - Upstream of Hodgson Road Bridge	June 16 - February 28	X	-
Deadman Creek (60.0008) - Mouth to SR395 Crossing	Submit Application	-	-
Deadman Creek (60.0008) - Upstream of SR395	June 16 - February 28	X	-
Goosmus Creek (60.0254)	June 16 - February 28	X	-
Toroda Creek (60.0410)	July 1 - September 30	X	-
San Poil River (52.0004)	June 16 - September 30	X	X
Granite Creek (52.0099) - Mouth to Powerhouse Dam	June 16 - September 30	X	-
Granite Creek (52.0099) - Upstream of Powerhouse Dam	June 16 - February 28	X	-
West Fork San Poil River (52.0192) - Mouth to Deep Creek	June 16 - September 30	X	X
West Fork San Poil River (52.0192) - Upstream of Deep Creek	June 16 - September 30	X	-
Gold Creek (52.0197)	June 16 - February 28	X	-
Franklin County	June 1 - September 30	X	-
Columbia River	See Below	-	-
Snake River	See Below	-	-
Palouse River (34.0003)	July 16 - February 28	X	X

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
North bank tributaries of the lower Snake River between Palouse River and the mouth of the Snake River	June 16 - October 31	X	-
Garfield County	July 16 - September 30	X	-
Snake River (35.0003)	See Below	-	-
Alpowa Creek (35.1440)	July 16 - December 15	X	-
Asotin Creek (35.1716)	July 16 - August 15	X	-
Deadman Creek (35.0688)	July 16 - December 15	X	-
Grande Ronde River tributaries (35.2192)	July 16 - August 15	X	-
Meadow Creek (35.0689)	July 16 - December 15	X	-
Tucannon River (35.0009) - Mouth to Panjab Creek	July 16 - August 15	X	X
Tucannon River (35.0009) - Upstream of Panjab Creek	July 16 - August 15	X	-
Pataha Creek (35.0123) - Mouth to Pataha Creek	January 1 - December 31	X	-
Pataha Creek (35.0123) - Upstream of Pataha Creek	July 16 - December 31	X	-
Grant County	July 1 - October 31	X	-
Columbia River	See Below	-	-
Crab Creek (41.0002)	July 16 - September 15	X	X
Grays Harbor County	July 16 - October 15	X	-
Chehalis River (22.0190/23.0190) - Mouth to Porter Creek	August 1 - August 31	X	X
Chehalis River (22.0190/23.0190) - Porter Creek to Fisk Falls	August 1 - August 15	X	X
Chehalis River (22.0190/23.0190) - Upstream of Fisk Falls	August 1 - August 15	X	-
Cedar Creek (23.0570)	August 1 - September 30	X	-
Cloquallum Creek (22.0501)	August 1 - September 30	X	-
Porter Creek (23.0543)	August 1 - September 30	X	-
Satsop River (22.0360)	August 1 - August 31	X	X
Wishkah River (22.0191)	August 1 - October 15	X	X
Wynoochee River (22.0260)	August 1 - September 30	X	X
Copalis River (21.0767)	August 1 - October 15	X	X

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Elk River (22.1333)	July 1 - October 31	X	X
Hoquiam River (22.0137)	August 1 - October 15	X	X
Humptulips River (22.0004) - Mouth to Forks	August 1 - September 30	X	X
Humptulips River (22.0004) - Upstream of Forks	August 1 - September 30	X	-
Johns River (22.1270)	August 1 - September 30	X	X
Moclips River (21.0731)	August 1 - October 15	X	X
North River (24.0034)	August 1 - September 30	X	X
Queets River (21.0001)	August 1 - August 15	X	X
Quinault River (21.0398)	August 1 - August 15	X	X
Raft River (21.0337)	August 1 - October 15	X	X
Island County	June 16 - October 15	X	-
Cavalero Creek (06.0065)	June 16 - December 15	X	-
Chapman Creek (06.0070)	June 16 - December 15	X	-
Crescent Creek (06.0002)	June 16 - December 15	X	-
Cultus Creek (06.0026)	June 16 - March 15	X	-
Deer Creek (06.0024)	June 16 - March 15	X	-
Dugualla Creek (06.0001)	June 16 - March 15	X	-
Glendale Creek (06.0025)	June 16 - December 15	X	-
Kristoferson Creek (06.0062-06.0063)	May 1 - December 15	X	-
Maxwelton Creek (06.0029)	June 16 - December 15	X	-
North Bluff Creek (06.0006)	June 16 - March 15	X	-
Old Clinton Creek (06.0023)	June 16 - March 15	X	-
Jefferson County	July 16 - October 31	X	-
Big Quilcene River (17.0012) - Mouth to falls	July 16 - August 31	X	X
Big Quilcene River (17.0012) - Falls to Forks	August 1 - February 28	X	X
Big Quilcene River (17.0012) - Upstream of Forks	August 1 - February 28	X	-
Bogachiel River (20.0162)	Submit Application	-	-
Chimacum Creek (17.0203)	July 16 - September 15	X	-
Donovan Creek (17.0115)	July 1 - October 15	X	-
Dosewallips River (16.0442)	July 16 - August 15	X	-
Duckabush River (16.0351)	July 16 - August 15	X	-
Dungeness River (18.0018)	August 1 - August 15	X	-
Elwha River (18.0272)	August 1 - August 15	X	X

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Goodman Creek (20.0406)	August 1 - September 15	X	-
Hoh River (20.0422)	August 1 - August 15	X	X
Little Quilcene River (17.0076)	July 16 - August 31	X	-
Queets River (21.0001)	August 1 - August 15	X	X
Matheny Creek (21.0165)	August 1 - August 15	X	-
Sams River (21.0205)	August 1 - August 15	X	X
Quinault River (21.0398)	August 1 - August 15	X	X
Salmon Creek (17.0245)	July 16 - August 31	X	-
Skokomish River (16.0001)	August 1 - August 31	X	X
Snow Creek (17.0219)	July 16 - August 31	X	-
Tarboo Creek (17.0129)	August 1 - September 30	X	-
Thorndyke Creek (17.0170)	August 1 - October 15	X	-
King County	July 16 - September 30	X	-
Cedar River (08.0299) - Mouth to Forks	August 1 - August 31	X	X
Cedar River (08.0299) - Upstream of Forks	August 1 - August 31	X	-
Issaquah Creek (08.0178)	August 1 - August 31	X	-
Sammamish River (08.0057)	August 1 - August 31	X	-
Steele Creek (08.0379)	July 16 - February 28	X	-
Green River (Duwamish River) (09.0001) - Mouth to Sawmill Creek	August 1 - August 31	X	X
Green River (Duwamish River) (09.0001) - Upstream of Sawmill Creek	August 1 - August 31	X	-
Lake Washington tributaries (08.LKWA)	August 1 - August 31	X	-
Snoqualmie River (07.0219) - Mouth to Snoqualmie Falls	August 1 - August 15	X	X
Snoqualmie River (07.0219) - Snoqualmie Falls to mouth of South Fork	July 16 - February 28	X	X
Patterson Creek (07.0376)	July 16 - September 30	X	-
Middle Fork Snoqualmie River (07.0219) - Mouth to Taylor Creek	July 16 - February 28	X	X

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Middle Fork Snoqualmie River (07.0219) - Upstream of Taylor Creek	July 16 - February 28	X	-
Goat Creek (07.0754)	July 16 - February 28	X	-
North Fork Snoqualmie River (07.0527) - Mouth to Lennox Creek	July 16 - February 28	X	X
North Fork Snoqualmie River (07.0527) - Upstream of Lennox Creek	July 16 - February 28	X	-
Deep Creek (07.0562)	July 16 - February 28	X	-
Illinois Creek (07.0624)	July 16 - February 28	X	-
Lennox Creek (07.0596)	July 16 - February 28	X	-
Bear Creek (07.0606)	July 16 - February 28	X	-
Raging River (07.0384)	August 1 - September 15	X	X
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15	X	X
South Fork Skykomish River (07.0012) - Upstream of Sunset Falls	August 1 - August 15	X	-
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15	X	X
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28	X	-
Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31	X	X
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28	X	-
Index Creek (07.1264) - Mouth to Mud Lake Creek	August 1 - August 31	X	-
Index Creek (07.1264) - Upstream of Mud Lake Creek including Salmon Creek	July 16 - February 28	X	-
Miller River (07.1329) - Mouth to Forks	August 1 - August 15	X	X
Miller River (07.1329) - Upstream of Forks	August 1 - August 15	X	-
Coney Creek (07.1347)	July 16 - February 28	X	-
East Fork Miller River (07.1329) - Mouth to Great Falls Creek	July 16 - August 15	X	-

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East Fork Miller River (07.1329) - Upstream of Great Falls Creek	July 16 - February 28	X	-
Foss River (07.1562) - Mouth to Forks	July 16 - August 31	X	X
East Fork Foss River (07.1562) - Mouth to Burn Creek	July 16 - August 15	X	X
East Fork Foss River (07.1562) - Upstream of Burn Creek	July 16 - February 28	X	-
West Fork Foss River (07.1573) - Mouth to falls at river mile 2.0	July 16 - August 31	X	-
West Fork Foss River (07.1573) - Upstream of falls at river mile 2.0	July 16 - February 28	X	-
West Fork Miller River (07.1335)	July 16 - February 28	X	X
Money Creek (07.1300) - Mouth to 0.5 mile upstream of Kimball Creek	August 1 - August 31	X	-
Money Creek (07.1300) - Upstream of 0.5 mile upstream of Kimball Creek	August 1 - February 28	X	-
Kimball Creek (07.1301)	August 1 - August 31	X	-
Tye River (07.0012) - Mouth to Alpine Falls	August 1 - August 31	X	X
Tye River (07.0012) - Upstream of Alpine Falls	July 16 - February 28	X	-
South Fork Snoqualmie River (07.0467)	July 16 - February 28	X	X
Denny Creek (07.0517)	July 16 - February 28	X	-
Tolt River (07.0291) - Mouth to Forks	August 1 - August 31	X	X
North Fork Tolt River (07.0291) - Mouth to Yellow Creek	July 16 - September 15	X	X
North Fork Tolt River (07.0291) - Upstream of Yellow Creek	July 16 - February 28	X	-

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South Fork Tolt River (07.0302) - Mouth to dam	July 16 - September 15	X	X
South Fork Tolt River (07.0302) - Upstream of Tolt Reservoir	July 16 - February 28	X	-
Yellow Creek (07.0337)	July 16 - February 28	X	-
White River (10.0031)	July 16 - August 15	X	X
Greenwater River (10.0122)	July 16 - August 15	X	X
Kittitas County	July 1 - September 30	X	-
Brushy Creek (40.0612)	July 1 - February 28	X	-
Colockum Creek (40.0760)	July 1 - October 31	X	-
Quilomene Creek (40.0613)	July 1 - October 31	X	-
Stemilt Creek (40.0808) - Upstream of falls	July 1 - February 28	X	-
Tarpiscan Creek (40.0723)	July 1 - February 28	X	-
Tekiason Creek (40.0686)	July 1 - February 28	X	-
Whisky Dick Creek (40.0591)	July 1 - February 28	X	-
Yakima River (39.0002) - Roza Dam to Teanaway River	August 1 - August 31	X	X
Naches River (38.0003) - Tieton River to Bumping River	July 1 - August 15	X	X
Little Naches River (38.0852) - Mouth to Matthew Creek	July 16 - August 15	X	X
Little Naches River (38.0852) - Upstream of Matthew Creek	July 16 - August 15	X	-
Pileup Creek (38.0932)	July 16 - August 31	X	-
Gold Creek (38.MISC)	July 16 - February 28	X	-
Swauk Creek (39.1157)	July 16 - September 30	X	-
Baker Creek (39.1157)	July 16 - September 30	X	-
First Creek (39.1157)	July 16 - September 30	X	-
Iron Creek (39.1157)	July 16 - September 30	X	-
Williams Creek (39.1157)	July 16 - September 30	X	-
Boulder Creek (39.1157)	July 16 - February 28	X	-
Cougar Gulch (39.1157)	July 16 - February 28	X	-
Lion Gulch (39.1157)	July 16 - February 28	X	-
Yakima River (39.0002) - Teanaway River to Easton Dam	August 1 - August 31	X	X

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Yakima River (39.0002) - Upstream of Easton Dam	August 1 - August 31	X	X
Cle Elum River (39.1434) - Mouth to dam	July 16 - August 31	X	X
Cle Elum River (39.1434) - Upstream of Cle Elum Dam	Submit Application	-	-
Big Boulder Creek (39.1434MISC)	August 1 - February 28	X	-
Camp Creek (39.1434MISC)	August 1 - February 28	X	-
Fortune Creek (39.1434MISC)	August 1 - August 15	X	-
South Fork Fortune Creek (39.1434MISC)	August 1 - February 28	X	-
Howson Creek (39.1434)	July 16 - February 28	X	-
Little Salmon Le Sac Creek (39.1482)	August 1 - August 15	X	-
Paris Creek (39.1434MISC)	August 1 - February 28	X	-
Salmon Le Sac Creek (39.1520)	August 1 - February 28	X	-
Kachess River (39.1739) - Upstream of Lake Kachess	Submit Application	-	-
Kachess River (39.1739) - Below dam	July 16 - August 15	X	X
Box Canyon Creek (39.1765)	Submit Application	-	-
Mineral Creek (39.1792)	August 1 - August 15	X	-
Lake Keechelus (39.1842) tributaries	July 16 - August 15	X	-
Gold Creek (Lake Keechelus) (39.1842)	Submit Application	-	-
Manastash Creek (39.0988)	July 16 - September 30	X	-
Naneum Creek (39.0821)	July 16 - September 30	X	-
Taneum Creek (39.1081) - Mouth to I-90	July 16 - August 31	X	-
Taneum Creek (39.1157) - Upstream of I-90	July 16 - September 30	X	-
Teanaway River (39.1236)	July 16 - August 31	X	X
NF Teanaway River (39.1260)	Submit Application	-	-
Umtanum Creek (39.0553)	July 16 - September 30	X	-
Wenas Creek, Below dam (39.0032)	July 16 - October 15	X	-

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Wenas Creek, Upstream of Wenas Lake (39.0032)	July 16 - February 28	X	-
Other Yakima River tributaries not listed	July 16 - August 31	X	-
Kitsap County	July 16 - October 15	X	-
Anderson Creek (15.0211)	August 1 - November 15	X	-
Barker Creek (15.0255)	August 1 - September 30	X	-
Big Beef Creek (15.0389)	August 1 - August 15	X	-
Big Scandia Creek (15.0280)	August 1 - September 30	X	-
Blackjack Creek (15.0203)	August 1 - September 30	X	-
Burley Creek (15.0056)	August 1 - September 30	X	-
Chico Creek (15.0229)	August 1 - October 15	X	-
Clear Creek (15.0249)	August 1 - September 30	X	-
Curley Creek (15.0185)	August 1 - September 30	X	-
Dewatto River (15.0420)	August 1 - August 15	X	-
Dogfish Creek (15.0285)	August 1 - August 15	X	-
Gorst Creek (15.0216)	August 1 - August 15	X	-
Grovers Creek (15.0299)	August 1 - August 31	X	-
Johnson Creek (15.0387)	August 1 - October 31	X	-
Ollala Creek (15.0107)	August 1 - September 30	X	-
Ross Creek (15.0209)	August 1 - November 15	X	-
Salmonberry Creek (15.0188)	August 1 - November 30	X	-
Seabeck Creek (15.0400)	August 1 - August 15	X	-
Steele Creek (15.0273)	August 1 - September 30	X	-
Tahuya River (15.0446)	August 1 - August 31	X	X
Union River (15.0503)	August 1 - August 31	X	X
Klickitat County	July 15 - September 30	X	-
Alder Creek (31.0459)	August 1 - September 30	X	-
Chapman Creek (31.0192)	August 1 - September 30	X	-
Glade Creek (31.0851)	August 1 - September 30	X	-
Juniper Canyon Creek (31.0378)	August 1 - September 30	X	-
Klickitat River (30.0002) - Mouth to Klickitat hatchery	Submit Application	-	-
Klickitat River (30.0002) - Upstream of Klickitat hatchery	Submit Application	-	-

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Little White Salmon River (29.0131) - Mouth to Cabbage Creek	July 16 - January 31	X	X
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31	X	-
Pine Creek (31.0354)	August 1 - September 30	X	-
Rock Creek (31.0014)	August 1 - September 30	X	-
Six Prong Creek (31.0465)	August 1 - September 30	X	-
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15	X	X
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15	X	-
Wood Gulch Creek (31.0263)	August 1 - September 30	X	-
Lewis County	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190) - Mouth to South Fork Chehalis River	August 1 - August 15	X	X
Chehalis River (22.0190/23.0190) - Upstream of South Fork Chehalis River	August 1 - August 31	X	X
Newaukum River (23.0882) - Mouth to South Fork	August 1 - August 31	X	X
Newaukum River (23.0882) - Upstream of South Fork	August 1 - August 31	X	-
Skookumchuck River (23.0761)	August 1 - August 31	X	X
Cowlitz River (26.0002)	August 1 - August 15	X	X
Cispus River (26.0668) - Mouth to Squaw Creek (26.1010)	August 1 - August 15	X	X
Cispus River (26.0668) - Squaw Creek to Chambers Creek	July 16 - February 28	X	X
Cispus River (26.0668) - Upstream of Chambers Creek	July 16 - February 28	X	-
Yellowjacket Creek (26.0757)	August 1 - August 15	X	-
McCoy Creek (26.0766) - Mouth to lower falls	August 1 - August 15	X	-

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McCoy Creek (26.0766) - Upstream of lower falls	July 16 - February 28	X	-
Walupt Creek (26.1010)	Submit Application	-	-
Packwood Lake tributaries	August 16 - September 15	X	-
Tilton River (26.0560) - Mouth to North Fork	August 1 - September 30	X	X
Tilton River (26.0560) - Upstream of North Fork	August 1 - September 30	X	-
Toutle River (26.0227)	August 1 - August 31	X	X
North Fork Toutle River (26.0314)	July 16 - August 15	X	X
Green River (26.0323)	July 16 - September 30	X	X
Deschutes River (13.0028)	July 16 - August 31	X	X
Little Deschutes River (13.0110)	July 16 - February 28	X	-
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30	X	X
Lincoln County	June 16 - February 28	X	-
Columbia River	See Below	-	-
Hawk Creek (53.0101) - Mouth to falls	June 16 - August 31	X	-
Hawk Creek (53.0101) - Upstream of falls	June 16 - February 28	X	-
Upper Crab Creek (42.0001)	June 16 - February 28	X	-
Wilson Creek (43.0020)	June 16 - February 28	X	-
Mason County	August 1 - October 15	X	-
Cloquallum Creek (22.0501)	August 1 - September 30	X	-
Coulter Creek (15.0002)	August 1 - August 31	X	-
Dewatto River (15.0420)	August 1 - August 31	X	-
Goldsborough Creek (14.0035)	August 1 - October 15	X	-
John Creek (16.0253)	August 1 - August 31	X	-
Hamma Hamma River (16.0251) - Mouth to falls	August 1 - August 31	X	-
Johns Creek (14.0049)	August 1 - August 15	X	-
Lilliwaup River (16.0230) - Mouth to falls	August 1 - August 31	X	X
Lilliwaup River (16.0230) - Upstream of falls	August 1 - February 28	X	-
Mill Creek (14.0029)	August 1 - August 15	X	-

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Satsop River (22.0360)	August 1 - August 31	X	-
Schaerer Creek (16.0326)	August 1 - August 31	X	-
Sherwood Creek (14.0094)	August 1 - August 15	X	-
Skokomish River (16.0001) - Mouth to Forks	August 1 - August 31	X	X
Skokomish River (16.0001) - Upstream of Forks	August 1 - August 31	X	-
Tahuya River (15.0446)	August 1 - August 31	X	-
Twanoh Creek (14.0134)	August 1 - October 31	X	-
Union River (15.0503)	August 1 - August 31	X	X
Okanogan County	July 1 - August 15	X	-
Aneas Creek (49.0243) - Mouth to falls	July 16 - August 31	X	-
Aneas Creek (49.0243) - Upstream of falls	July 1 - March 31	X	-
Chewiliken Creek (49.0232) - Mouth to falls	July 16 - August 31	X	-
Chewiliken Creek (49.0232) - Upstream of falls	July 1 - March 31	X	-
Chiliwist Creek (49.0034) - Mouth to falls	July 16 - August 31	X	-
Chiliwist Creek (49.0034) - Upstream of falls	July 1 - March 31	X	-
Foster Creek (50.0065)	July 1 - February 28	X	-
Methow River (48.0007) - Columbia confluence to Twisp River	July 1 - July 31	X	X
Methow River tributaries between Black Canyon Creek and Gold Creek	July 1 - February 28	X	-
Black Canyon Creek (48.0015) - Mouth to Left Fork	Submit Application	-	-
Black Canyon Creek (48.0015) - Upstream of Left Fork	July 1 - February 28	X	-
Gold Creek (48.0104) - Mouth to Foggy Dew Creek	Submit Application	-	-
Foggy Dew Creek (48.0153) - Mouth to Foggy Dew Falls	Submit Application	-	-

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Foggy Dew Creek (48.0153) - Upstream of Foggy Dew Falls	July 1 - February 28	X	-
Middle Fork Gold Creek (48.0139)	July 1 - February 28	X	-
North Fork Gold Creek (48.0104)	Submit Application	-	-
Crater Creek (48.0177) - Mouth to Martin Creek	Submit Application	-	-
Crater Creek (48.0177) - Upstream of Martin Creek	July 1 - February 28	X	-
Martin Creek (48.0177)	July 1 - February 28	X	-
South Fork Gold Creek (48.0105) - Mouth to Rainy Creek	Submit Application	-	-
South Fork Gold Creek (48.0105) - Upstream of Rainy Creek	July 1 - February 28	X	-
Rainy Creek (48.0105)	July 1 - February 28	X	-
McFarland Creek (48.0090) - Mouth to Vinegar Gulch	Submit Application	-	-
McFarland Creek (48.0090) - Upstream of Vinegar Gulch	July 1 - February 28	X	-
Methow River tributaries between Libby Creek and Beaver Creek	July 1 - February 28	X	-
Beaver Creek (48.0307)	Submit Application	-	-
Frazer Creek (48.0309)	July 1 - February 28	X	-
Lightning Creek (48.0361)	July 1 - February 28	X	-
Middle Fork Beaver Creek (48.0307)	July 1 - February 28	X	-
South Fork Beaver Creek (48.0342)	July 1 - February 28	X	-
Libby Creek (48.0203) - Mouth to Hornet Draw Creek	Submit Application	-	-
Libby Creek (48.0203) - Upstream of Hornet Draw	July 1 - February 28	X	-
Methow River (48.0007) - Twisp River to Goat Creek	July 1 - July 31	X	X
Methow River (48.0007) - Upstream of Goat Creek	July 1 - July 31	X	-

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Chewuch River (48.0728) - Mouth to Meadow Creek	July 1 - July 31	X	X
Chewuch River (48.0728) - Upstream of Meadow Creek	July 1 - February 28	X	-
Early Winters Creek (48.1408) - Mouth to Silver Star Creek	Submit Application	-	-
Early Winters Creek (48.1408) - Upstream of Silver Star Creek	July 1 - February 28	X	-
Goat Creek (48.1364) - Mouth to 500 feet upstream of Montana Creek	Submit Application	-	-
Goat Creek (48.1364) - 500 feet Upstream of Montana Creek to Roundup Creek	July 1 - February 28	X	-
Goat Creek (48.1364) - Upstream of Roundup Creek	Submit Application	-	-
Lost River (48.0592)	July 16 - August 15	X	X
Twisp River (48.0374)	July 1 - July 31	X	X
Buttermilk Creek (48.0466)	Submit Application	-	-
North Creek (48.0674)	Submit Application	-	-
North Fork Twisp River (48.0691)	July 1 - February 28	X	-
South Creek (48.0641) - Upstream of Louis Creek	July 1 - February 28	X	-
South Creek (48.0641) - Mouth to Louis Creek	Submit Application	-	-
South Fork Twisp River (48.0698)	July 1 - February 28	X	-
Wolf Creek (48.1300)	Submit Application	-	-
Myers Creek (60.0517)	July 1 - February 28	X	-
Bolster Creek (60.0517)	July 1 - February 28	X	-
Ethel Creek (60.0517)	July 1 - February 28	X	-
Gold Creek (60.0517)	July 1 - February 28	X	-
Mary Ann Creek (60.0517)	July 1 - February 28	X	-
North Fork Mary Ann Creek (60.0517)	July 1 - February 28	X	-
Okanogan River (49.0019) - Mouth to Zosel Dam	July 1 - August 31	X	X

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Antoine Creek (49.0294) - Mouth to velocity gradient at river mile 1.0	July 1 - February 28	X	-
Antoine Creek (49.0294) - Upstream of falls	July 1 - March 31	X	-
Bonaparte Creek (49.0246) - Upstream of falls	July 1 - March 31	X	-
Bonaparte Creek (49.0246) - Mouth to Bonaparte Falls at river mile 1.0	July 1 - February 28	X	-
Loup Loup Creek (49.0048) - Mouth to Loup Loup Falls at river mile 2.4	July 1 - February 28	X	-
Loup Loup Creek (49.0048) - Upstream of Loup Loup Falls at river mile 2.4	July 1 - March 31	X	-
Mosquito Creek (49.0321) - Mouth to falls	July 1 - August 31	X	-
Mosquito Creek (49.0321) - Upstream of falls	July 1 - March 31	X	-
Nine Mile Creek (49.0516)	July 1 - February 28	X	-
Omak Creek (49.0138) - Mouth to Mission Falls at river mile 5.4	July 1 - February 28	X	-
Omak Creek (49.0138) - Upstream of falls	July 1 - March 31	X	-
Salmon Creek (49.0079) - Mouth to diversion	July 1 - August 31	X	-
Salmon Creek (49.0079) - Upstream of diversion	July 1 - February 28	X	-
Similkameen River (49.0325) - Mouth to Enloe Dam	July 1 - August 31	X	X
Similkameen River (49.0325) - ((Upstream of)) Enloe Dam to Palmer Creek	((July)) June 1 - October 31	X	X
Similkameen River (49.0325) - Upstream of Palmer Creek	July 1 - October 31	X	X
Sinlahekin Creek (49.0349) - Mouth to barrier dam at Conners Lake	July 1 - August 31	X	-
Cecile Creek (49.0447)	July 1 - February 28	X	-
Chopaka Creek (49.0357)	July 1 - February 28	X	-

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Toats Coulee Creek (49.0368)	July 1 - February 28	X	-
Cougar Creek (49.0368)	July 1 - February 28	X	-
Siwash Creek (49.0284) - Falls to headwaters	July 1 - March 31	X	-
Siwash Creek (49.0284) - Mouth to falls at river mile 1.4	July 1 - February 28	X	-
Tonasket Creek (49.0501) - Mouth to Tonasket Falls at river mile 1.8	July 1 - February 28	X	-
Tonasket Creek (49.0501) - Upstream of Tonasket Falls at river mile 1.8	July 1 - March 31	X	-
Tunk Creek (49.0211) - Mouth to falls	July 1 - February 28	X	-
Tunk Creek (49.0211) - Upstream of falls	July 1 - March 31	X	-
San Poil River (52.0004)	June 16 - September 30	X	X
West Fork San Poil (52.0192)	June 16 - September 30	X	X
Gold Creek (52.0197)	June 16 - February 28	X	-
Toroda Creek (60.0410)	July 1 - September 30	X	-
Pacific County	August 1 - September 30	X	-
Bear River (24.0689)	August 1 - September 30	X	X
Bone River (24.0405)	August 1 - September 30	X	-
Chehalis River (22.0190/23.0190)	August 1 - August 15	X	X
Columbia River	See Below	-	-
Chinook River (24.MISC)	August 1 - September 30	X	X
Grays River (25.0093)	July 16 - September 15	X	X
Naselle River (24.0543)	August 1 - September 15	X	X
Nemah River (24.0460)	August 1 - September 30	X	X
Niawiakum River (24.0417)	August 1 - September 30	X	-
North River (24.0034)	August 1 - September 30	X	X
Palix River (24.0426)	August 1 - September 30	X	-
Willapa River (24.0251)	August 1 - September 30	X	X
Pend Oreille County	July 1 - August 31	X	-
Little Spokane River (55.0003)	August 1 - March 15	X	-
West Branch Little Spokane River (55.0439)	August 1 - March 15	X	-

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Harvey Creek (62.0310) - Mouth to Rocky Fork of Harvey Creek	August 1 - August 31	X	-
Harvey Creek (62.0310) - Upstream of Rocky Fork of Harvey Creek	July 16 - February 28	X	-
Pend Oreille River (62.0002)	Submit Application	-	-
Big Muddy Creek (62.0279)	August 1 - March 15	X	-
Bracket Creek (62.0815)	August 1 - March 15	X	-
Calispel Creek (62.0628)	August 1 - August 31	X	-
Exposure Creek (62.0261)	August 1 - August 31	X	-
Kent Creek (62.0819)	August 1 - March 15	X	-
Le Clerc Creek (62.0415)	August 1 - August 31	X	-
Lime Creek (62.0014)	August 1 - March 15	X	-
Lodge Creek (62.0859)	August 1 - August 31	X	-
Lost Creek (62.0322)	August 1 - March 15	X	-
Marmust Creek (62.0842)	August 1 - March 15	X	-
Pee Wee Creek (62.0007) - Mouth to falls	August 1 - August 31	X	-
Pee Wee Creek (62.0007) - Upstream of falls	August 1 - March 15	X	-
Renshaw Creek (62.0310)	August 1 - March 15	X	-
Sullivan (O'Sullivan) Creek (62.0074)	August 1 - August 31	X	-
North Fork Sullivan Creek (62.0075)	August 1 - August 31	X	-
Tributaries of Deep Creek in Pend Oreille County (61.0195)	July 16 - August 15	X	-
Currant Creek (61.0249)	July 16 - August 15	X	-
Meadow Creek (61.0351)	July 16 - August 15	X	-
Rocky Creek (61.0364)	July 16 - August 15	X	-
Silver Creek (61.0195)	July 16 - August 15	X	-
Smackout Creek (61.0226)	July 16 - August 15	X	-
Pierce County	July 16 - August 31	X	-
Chambers/Clover Creek Watershed (12.MISC)	July 16 - September 30	X	-
Flett Creek (12.0009)	July 16 - October 31	X	-
Leach Creek (12.0008)	July 16 - September 30	X	-

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Nisqually River (11.0008) - Mouth to Alder Lake	July 16 - August 31	X	X
Nisqually River (11.0008) - Upstream of Alder Lake	July 16 - September 30	X	X
Mashel River (11.0101) - Mouth to Busy Wild Creek	July 16 - September 30	X	X
Mashel River (11.0101) - Upstream of Busy Wild Creek	July 16 - September 30	X	-
Puyallup River (10.0021) - Mouth to PSE Electron Powerhouse Outfall	July 16 - August 31	X	X
Puyallup River (10.0021) - Upstream of PSE Electron Powerhouse Outfall	July 16 - August 15	X	X
Carbon River (10.0413)	July 16 - August 15	X	X
Cayada Creek (10.0525) - Mouth to falls about 800 feet upstream	July 16 - August 31	X	-
Cayada Creek (10.0525) - Upstream of the falls	January 1 - December 31	X	-
South Prairie Creek (10.0429)	July 16 - August 15	X	-
Voight Creek (10.0414) - Mouth to falls at river mile 4.0	July 16 - August 31	X	-
Voight Creek (10.0414) - Upstream of falls river mile 4.0	July 16 - February 28	X	-
White River (10.0031)	July 16 - August 15	X	X
Clearwater River (10.0080)	July 16 - August 15	X	X
Greenwater River (10.0122)	July 16 - August 15	X	X
Huckleberry Creek (10.0253)	July 16 - August 15	X	-
West Fork White River (10.0186)	July 16 - August 15	X	X
Sequalitchew Creek (12.0019)	July 16 - September 30	X	-
San Juan County	July 1 - August 31	X	-
Cascade Creek (02.0057), Orcas Island - Upstream of Lower Falls	July 1 - February 28	X	-

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Cascade Creek (02.0057), Orcas Island, Buck Bay to falls located approximately 300 feet above mouth	July 1 - October 31	X	-
Doe Creek (02.MISC), San Juan Island, Westcott Bay to falls (approximately 250 feet from mouth)	June 16 - October 15	X	-
False Bay Creek (02.MISC) - San Juan Island; mouth to lake	July 1 - October 31	X	-
Glenwood Springs, Orcas Island; direct tributary to Eastsound Bay	July 1 - October 15	X	-
Moran Creek (02.MISC) - Orcas Island; from Cascade Lake delta upstream 1/4 mile	July 1 - October 15	X	-
Unnamed Creek (02.0041) - San Juan Island; mouth to lake	July 1 - October 15	X	-
Skagit County	August 1 - September 15	X	-
Granite Creek (04.2313) - Upstream of East Creek	July 16 - February 28	X	-
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15	X	X
North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15	X	-
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28	X	-
Samish River (03.0005)	August 1 - September 15	X	-
Skagit River (03.0176/04.0176)	Submit Application	-	-
Baker River (04.0435) - Mouth to Baker Dam	Submit Application	-	-
Cascade River (04.1411)	Submit Application	-	-
Day Creek (03.1435)	July 16 - February 28	X	-
Lookout Creek (04.1447)	July 16 - February 28	X	-
Sibley Creek (04.1481)	July 16 - February 28	X	-

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Day Creek (03.0299) - Mouth to Rocky Creek	Submit Application	-	-
Day Creek (03.0299) - Upstream of Rocky Creek	August 1 - February 28	X	-
Finney Creek (04.0392) - Mouth to Big Fir Creek	Submit Application	-	-
Finney Creek (04.0392) - Upstream of Big Fir Creek	July 16 - February 28	X	-
Illabot Creek (04.1346)	Submit Application	-	-
Sauk River (04.0673) - Mouth to Forks	Submit Application	-	-
Sauk River (04.0673) - Upstream of Forks	August 1 - August 15	X	-
Suiattle River (04.0710)	Submit Application	X	X
Wiseman Creek (03.0280) - Mouth to SR20	Submit Application	-	-
Wiseman Creek (03.0280) - Upstream of SR20	July 16 - February 28	X	-
South Fork Nooksack River (01.0246) - Mouth to falls at river mile 30	Submit Application	-	-
South Fork Nooksack River (01.0246) - Falls at river mile 30 to Wanlick Creek	Submit Application	-	-
South Fork Nooksack River (01.0246) - Upstream of Wanlick Creek	Submit Application	-	-
Skamania County	July 15 - September 15	X	-
Columbia River	See Below	-	-
Cispus River (26.0668)	August 1 - August 15	X	X
Cispus River (26.0668) tributaries located in Skamania County	August 1 - October 31	X	-
East Fork Lewis River (27.0173) - Lucia Falls to Sunset Falls	August 1 - February 28	X	X
East Fork Lewis River (27.0173) - Upstream of Sunset Falls	August 1 - February 28	X	-
Green River (26.0323) (Tributary of North Fork Toutle River)	July 16 - September 30	X	X

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Hamilton Creek (28.0303)	August 1 - August 31	X	-
Hardy Creek (28.0303)	August 1 - August 31	X	-
Little White Salmon River (29.0131) - Mouth to Hatchery	July 16 - August 15	X	X
Little White Salmon River (29.0131) - Hatchery to Cabbage Creek	July 16 - January 31	X	X
Little White Salmon River (29.0131) - Upstream of Cabbage Creek	July 16 - January 31	X	-
North Fork Lewis River (27.0168) - Merwin Dam to Lower Falls	July 16 - August 15	X	X
Canyon Creek (27.0442)	July 16 - February 28	X	-
North Fork Lewis River (27.0168) - Upstream of Lower Falls	July 16 - February 28	X	X
Washougal River (28.0159) - Mouth to Stebbins Creek	August 1 - August 31	X	X
Washougal River (28.0159) - Upstream of Stebbins Creek	August 1 - August 31	X	-
White Salmon River (29.0160) - Mouth to Cascade Creek	July 16 - August 15	X	X
White Salmon River (29.0160) - Upstream of Cascade Creek	July 16 - August 15	X	-
Wind River (29.0023)	August 1 - August 15	X	X
Woodward Creek (28.0298)	August 1 - August 31	X	-
Snohomish County	July 16 - September 15	X	-
Lake Washington tributaries	August 1 - August 15	X	-
Sauk River (04.0673) - Mouth to Forks	August 1 - August 15	X	X
Sauk River (04.0673) - Upstream of Forks	August 1 - August 15	X	-
Suiattle River (04.0710)	August 1 - August 15	X	X
Snohomish River (07.0012) - Mouth to Highway 9	August 1 - October 31	X	X
Snohomish River (07.0012) - Upstream of Highway 9	August 1 - August 15	X	X

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Pilchuck River (07.0125) - Mouth to city of Snohomish Diversion Dam	August 1 - August 31	X	X
Pilchuck River (07.0125) - City of Snohomish Diversion Dam to Boulder Creek	August 1 - September 15	X	X
Pilchuck River (07.0125) - Upstream of Boulder Creek	August 1 - September 15	X	-
Skykomish River (07.0012) - Mouth to Forks	August 1 - August 15	X	X
Deer Creek (05.0173) - Mouth to stream mile 0.5	August 1 - August 31	X	-
Deer Creek (05.0173) - Upstream of stream mile 0.5	August 1 - February 28	X	-
North Fork Skykomish River (07.0982) - Mouth to Bear Creek Falls	August 1 - August 31	X	X
North Fork Skykomish River (07.0982) - Bear Creek Falls to Deer Falls	August 1 - August 31	X	X
North Fork Skykomish River (07.0982) - Deer Falls to West Cady Creek	August 1 - February 28	X	X
North Fork Skykomish River (07.0982) - Upstream of West Cady Creek	August 1 - February 28	X	-
Howard Creek (07.1042)	July 16 - February 28	X	-
Silver Creek (07.1053) - Mouth to Lake Gulch	August 1 - August 31	X	-
Silver Creek (07.1053) - Upstream of Lake Gulch	August 1 - February 28	X	-
Troublesome Creek (07.1085)	August 1 - February 28	X	-
West Fork Troublesome Creek (07.1092)	August 1 - August 31	X	-
South Fork Skykomish River (07.0012) - Mouth to Sunset Falls	August 1 - August 15	X	X
Beckler River (07.1413) - Mouth to Boulder Creek	August 1 - August 15	X	X
Beckler River (07.1413) - Upstream of Boulder Creek	July 16 - February 28	X	-

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Rapid River (07.1461) - Mouth to Meadow Creek	August 1 - August 31	X	X
Rapid River (07.1461) - Upstream of Meadow Creek	August 1 - February 28	X	X
Sultan River (07.0881) - Mouth to Diversion Dam at river mile 9.4	August 1 - August 15	X	X
Sultan River (07.0881) - Diversion Dam to ((Elk Creek)) <u>anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmback Dam)</u>	((July 16 - February 28)) <u>August 1 - August 31</u>	X	X
Sultan River (07.0881) <u>anadromous fish blockage at river mile 15.7 (0.7 river miles downstream from Culmback Dam) to Elk Creek</u>	July 16 - February 28	X	X
Sultan River (07.0881) - Upstream of Elk Creek	July 16 - February 28	X	-
Wallace River (07.0940) - Mouth to Wallace Falls	August 1 - August 31	X	X
Wallace River (07.0940) - Upstream of Wallace Falls	August 1 - February 28	X	-
Olney Creek (07.0946) - Mouth to Olney Falls	August 1 - August 31	X	-
Olney Creek (07.0946) - Upstream of Olney Falls	August 1 - February 28	X	-
Snoqualmie River Mouth to falls (07.0219)	August 1 - August 15	X	X
All other Snohomish River tributaries	August 1 - August 31	X	-
Stillaguamish River (05.0001) - Mouth to Forks	August 1 - August 31	X	X
North Fork Stillaguamish River (05.0135) - Mouth to Squire Creek	August 1 - August 15	X	X
North Fork Stillaguamish River (05.0135) - Squire Creek to Cascade Creek	August 1 - August 15	X	-
North Fork Stillaguamish River (05.0135) - Upstream of Cascade Creek	July 16 - February 28	X	-

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South Fork Stillaguamish River (05.0001) - Mouth to Deer Creek	August 1 - August 15	X	X
South Fork Stillaguamish River (05.0001) - Upstream of Deer Creek	August 1 - August 15	X	-
Spokane County	June 16 - August 31	X	-
Latah Creek (56.0003)	June 16 - August 31	X	-
Little Spokane River (55.0600) - Mouth to Deer Creek	June 16 - August 31	X	X
Little Spokane River (55.0600) - Upstream of Deer Creek	June 16 - August 31	X	-
Spokane River (57.0001)	June 16 - August 31	X	X
Stevens County	July 16 - August 31	X	-
Columbia River	See Below	-	-
Big Sheep Creek (61.0150)	July 16 - August 15	X	-
Colville River (59.0002) - Mouth to the falls	July 16 - September 30	X	X
Colville River (59.0002) - Upstream of the falls	July 16 - September 30	X	X
Deep Creek (61.0195)	July 16 - August 15	X	-
Onion Creek (61.0098)	July 16 - August 15	X	-
Sheep Creek (59.0861)	July 16 - September 30	X	-
Lake Roosevelt tributaries from the mouth of the Spokane River to mouth of the Colville River	July 16 - February 28	X	-
Lake Roosevelt tributaries from the mouth of the Colville River north to the B.C. border	July 16 - February 28	X	-
Tributaries of Little Spokane River (55.0600)	June 16 - August 31	X	-
Calispel Creek (62.0628)	August 1 - August 31	X	-
Other tributaries to the Pend Oreille River in Stevens County	July 1 - August 31	X	-
Thurston County	July 16 - September 15	X	-
Cedar Creek (23.0570)	August 1 - September 30	X	-

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Chehalis River (22.0190/23.0190) - Upstream of Porter Creek	August 1 - August 15	X	X
Skookumchuck River (23.0761) - Mouth to Skookumchuck Reservoir	August 1 - August 31	X	X
Skookumchuck River (23.0761) - Upstream of Skookumchuck Reservoir	August 1 - August 31	X	-
Deschutes River (13.0028) - Mouth to Deschutes Falls	July 16 - August 31	X	X
Deschutes River (13.0028) - Upstream of Deschutes Falls	July 16 - August 31	X	-
Ellis Creek (13.0022)	May 16 - September 30	X	-
Little Deschutes River (13.0110)	July 16 - February 28	X	-
McLane Creek (13.0138)	August 1 - October 31	X	-
Percival Creek (13.0029)	July 16 - August 31	X	-
Nisqually River (11.0008)	July 16 - August 31	X	X
Tributaries of Nisqually River (11.0008)	July 16 - August 31	X	-
Porter Creek (23.0543)	August 1 - September 30	X	-
Schneider Creek (14.0009)	August 1 - October 31	X	-
Waddell Creek (23.0677)	August 1 - September 30	X	-
Woodard Creek (13.0012)	July 16 - August 31	X	-
Woodland Creek (13.0006)	July 16 - September 30	X	-
Wahkiakum County	July 16 - September 15	X	-
Columbia River	See Below	-	-
Abernathy Creek (25.0297)	July 16 - September 15	X	-
Deep River (25.0011)	July 16 - September 15	X	X
Elochoman River (25.0236)	July 16 - September 15	X	X
Grays River (25.0093)	July 16 - September 15	X	X
Mill Creek (25.0284)	July 16 - September 15	X	-
Naselle River (24.0543)	July 16 - September 15	X	X
Skamokowa Creek (25.0194)	July 16 - September 15	X	-
Walla Walla County	July 16 - September 30	X	-
Walla Walla River (32.0008) - Mouth to Oregon state line	July 16 - September 15	X	X
Mill Creek (32.1436) - Mouth to Oregon state line	August 1 - August 15	X	-

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Touchet River (32.0097) - Mouth to Forks	August 1 - August 15	X	X
North Fork Touchet/Wolf Fork (32.0761)	Submit Application	-	-
South Fork Touchet (32.0708)	Submit Application	-	-
Whatcom County	July 16 - August 15	X	-
Damfino Creek (00.0032)	July 16 - August 31	X	-
Nooksack River (01.0120)	Submit Application	-	-
Cascade Creek (02.0057) - Mouth to FR 37	Submit Application	-	-
Cascade Creek (02.0057) - Upstream of FR 37	July 16 - February 28	X	-
Middle Fork Nooksack River (01.0339) - Mouth to city of Bellingham Diversion Dam	Submit Application	-	-
Middle Fork Nooksack River (01.0339) - Upstream of city of Bellingham Diversion Dam	Submit Application	-	-
North Fork Nooksack River (01.0120) - Mouth to Nooksack Falls	Submit Application	-	-
North Fork Nooksack River (01.0120) - Upstream of Nooksack Falls	Submit Application	-	-
Barometer Creek (01.0513)	July 16 - February 28	X	-
Ruth Creek (01.0531)	July 16 - February 28	X	-
Swamp Creek (01.0518)	July 16 - February 28	X	-
Wells Creek (02.0057)	Submit Application	-	-
Bar Creek (01.0500)	July 16 - February 28	X	-
South Fork Nooksack (01.0246) - Mouth to Wanlick Creek	Submit Application	-	-
South Fork Nooksack (01.0246) - Upstream of Wanlick Creek	Submit Application	-	-
Samish River (03.0005)	July 16 - August 15	X	-
Skagit River (03.0176/04.0176)	Submit Application	-	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Baker River (04.0435) - Mouth to Baker Lake Dam (04.0435)	Submit Application	-	-
Baker River (04.0435) - Baker Lake to National Park boundary	Submit Application	-	-
Boulder Creek (04.0499)	July 16 - February 28	X	-
Park Creek (04.0506) - Mouth to fish passage barrier at river mile 1.6	Submit Application	-	-
Park Creek (04.0506) - Upstream of river mile 1.6	July 16 - February 28	X	-
Swift Creek (04.0509) - Mouth to Rainbow Creek	Submit Application	-	-
Swift Creek (04.0509) - Upstream of Rainbow Creek	July 16 - February 28	X	-
Ross Lake tributaries (03.0176/04.0176)	Submit Application	-	-
Ruby Creek (04.2199)	Submit Application	-	-
Canyon Creek (04.2458) - Mouth to Barron Creek	Submit Application	-	-
Canyon Creek (04.2458) - Upstream of Barron Creek and tributaries	October 1 - February 28	X	-
Barron Creek (04.2591)	October 1 - February 28	X	-
Boulder Creek (04.2478) - Mouth to 300 feet upstream	Submit Application	-	-
Boulder Creek (04.2478) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Friday Creek (04.2549) - Mouth to 300 feet upstream	Submit Application	-	-
Friday Creek (04.2549) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Holmes Creek (04.2473) - Mouth to 300 feet upstream	Submit Application	-	-
Holmes Creek (04.2473) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Mill Creek (04.2504) - Mouth to 300 feet upstream	Submit Application	-	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Mill Creek (04.2504) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
Nickol Creek (04.2476) - Mouth to 300 feet upstream	Submit Application	-	-
Nickol Creek (04.2476) - 300 feet upstream of mouth to headwaters	October 1 - February 28	X	-
North Fork Canyon Creek (04.2583) - Mouth to Elk Creek	Submit Application	-	-
Cascade Creek (05.2584)	October 1 - February 28	X	-
North Fork Canyon Creek (04.2583) - Upstream of Elk Creek	October 1 - February 28	X	-
Slate Creek (04.2557) - Mouth to falls at river mile 0.6	Submit Application	-	-
Slate Creek (04.2557) - Upstream of falls at river mile 0.6	October 1 - February 28	X	-
Granite Creek (04.2313) - Mouth to East Creek	Submit Application	-	-
Granite Creek (04.2313) - Upstream of East Creek and tributaries	October 1 - February 28	X	-
Saar Creek (00.0003)	August 1 - September 30	X	-
Silesia Creek (00.0042) - Canadian border to Middle Fork	July 16 - August 15	X	-
Silesia Creek (00.0042) - Middle Fork to National Park boundary	July 16 - February 28	X	-
Rapid Creek (00.0048)	July 16 - February 28	X	-
West Fork Silesia Creek (00.0044)	July 16 - February 28	X	-
Winchester Creek (00.0045)	July 16 - February 28	X	-
Whitman County	July 16 - December 15	X	-
Snake River (35.0002)	See Below	-	-
Alkali Flats Creek (35.0570)	July 16 - December 15	X	-
Almota Creek (35.1017)	July 16 - December 15	X	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Little Almota Creek (35.1018)	July 16 - December 15	X	-
Palouse River (34.0003) - Mouth to Palouse Falls	July 16 - September 30	X	X
Palouse River (34.0003) - Upstream of Palouse Falls	July 16 - February 28	X	X
Penewawa Creek (35.0916)	July 16 - December 15	X	-
Wawawi Canyon Creek (35.1165)	July 16 - December 15	X	-
Yakima County	June 1 - September 15	X	-
Glade Creek (31.0851)	August 1 - September 30	X	-
Klickitat River (30.0002)	Submit Application	-	-
Yakima River (37.0002/38.0002/39.0002) - Mouth to Roza Dam	June 1 - September 15	X	X
Ahtanum Creek (37.1382)	June 16 - September 30	X	-
North Fork Ahtanum Creek (37.1382)	Submit Application	-	-
South Fork Ahtanum Creek (37.1382)	Submit Application	-	-
Naches River (38.0003) - Mouth to Tieton River	July 1 - October 15	X	X
Naches River (38.0003) - Upstream of mouth of Tieton River to Bumping River	July 1 - August 15	X	X
Bumping River (38.0998)	July 16 - August 15	X	X
American River (38.1000)	Submit Application	-	-
Gold Creek (38.MISC)	July 16 - February 28	X	-
Kettle Creek (38.1033)	Submit Application	-	-
Miner Creek (38.1027)	July 16 - February 28	X	-
Morse Creek (38.1072) - Mouth to SR410 crossing	August 1 - August 15	X	-
Morse Creek (38.1072) - Upstream of SR410 crossing	August 1 - February 28	X	-
Rock Creek (38.MISC)	July 16 - February 28	X	-
Timber Creek (38.1062)	August 1 - August 15	X	-
Union Creek (38.1045) - Upstream of 500 feet above falls	August 1 - February 28	X	-
Union Creek (38.1045) - Mouth to 500 feet above falls	Submit Application	-	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Other American River tributaries not listed	August 1 - February 28	X	-
Deep Creek (38.MISC)	Submit Application	-	-
Copper Creek (38.MISC)	August 1 - August 15	X	-
Cowiche Creek (38.0005) - Mouth to South Fork Cowiche Creek	July 1 - September 30	X	-
North Fork Cowiche Creek (38.0008)	July 1 - February 28	X	-
South Fork Cowiche Creek (38.0031) - Mouth to Reynolds Creek	July 1 - September 30	X	-
South Fork Cowiche Creek (38.0031) - Upstream of Reynolds Creek	July 16 - October 31	X	-
Granite Creek (38.MISC)	August 1 - August 15	X	-
Little Naches River (38.0852) - Mouth to Matthews Creek	July 16 - August 15	X	X
Little Naches River (38.0852) - Upstream of Matthews Creek	July 16 - August 15	X	-
Crow Creek (38.0858)	July 16 - August 15	X	-
Nile Creek (38.0692)	July 16 - October 15	X	-
Rattlesnake Creek (38.0518)	July 16 - August 15	X	-
Tieton River (38.0166) - Mouth to Rimrock Dam	July 1 - August 31	X	X
North Fork Tieton River (38.0291) - Below Clear Lake Dam	Submit Application	-	-
North Fork Tieton River (38.0291) - Upstream of Clear Lake	July 1 - August 15	X	-
Clear Creek (38.0317)	July 16 - February 28	X	-
South Fork Tieton River (38.0374) - Below South Fork Falls	Submit Application	-	-
South Fork Tieton River (38.0374) - Upstream of South Fork Falls	July 16 - February 28	X	-
Indian Creek (38.0302)	Submit Application	-	-
Tributaries of Tieton River below Rimrock Dam	July 16 - February 28	X	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Umtanum Creek (39.0553)	July 16 - September 30	X	-
Wenas Creek (39.0032)	July 16 - October 15	X	-
Other Yakima River tributaries	July 16 - August 31	X	-
Columbia River	-	-	-
Mouth to the I-205 Bridge	August 1 - March 31	X	X
I-205 Bridge to Bonneville Dam	July 16 - September 15	X	X
Bonneville Dam to Snake River	July 16 - February 28	X	X
Snake River to Priest Rapids Dam	July 16 - September 30	X	X
Priest Rapids Dam to Mouth of Crab Creek	July 16 - February 28	X	X
Mouth of Crab Creek to Wanapum Dam	July 16 - September 30	X	X
Wanapum Dam to the SR 285 bridge in South Wenatchee	July 16 - February 28	X	X
SR 285 bridge in South Wenatchee to the SR 2 bridge	July 16 - September 30	X	X
SR 2 bridge to one mile downstream of the Chelan River	July 16 - February 28	X	X
From one mile downstream of the Chelan River to the SR 97 bridge	July 16 - September 30	X	X
From SR 97 bridge to Chief Joseph Dam	July 16 - February 28	X	X
Chief Joseph Dam to Grand Coulee Dam	June 16 - March 31	X	X
Grand Coulee Dam to Canadian border	Submit Application	-	-
All Columbia River tributaries	See County Listings	-	-
Snake River	-	X	-
Mouth to Ice Harbor Dam	July 16 - September 30	X	X
Ice Harbor Dam to Mouth of Clearwater River	July 16 - March 31	X	X
Mouth of Clearwater River to state line	August 1 - August 31	X	X
All Snake River tributaries	See County Listings	-	-

Washington Counties and State Waters (Water Resource Inventory Area (WRIA) in parentheses)	Mineral Prospecting is Allowed Only Between These Dates	State Waters (and tributaries, unless otherwise indicated) in Which a Person May Use Mineral Prospecting Equipment With a Four and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter	State Waters (NOT including tributaries) in Which a Person May Use Mineral Prospecting Equipment With a Five and One-Quarter Inch Maximum Suction Intake Nozzle Inside Diameter
Lakes	Submit Application	-	-
Strait of Juan de Fuca, Puget Sound, Hood Canal	Submit Application	-	-
Ocean beaches within the Seashore Conservation Area established under RCW 79A.05.605	January 1 - December 31	X	X
All waters within Indian tribal reservation, National Park, state park, or wilderness boundaries, except those within the Seashore Conservation Area established under RCW 79A.05.605	Submit Application	-	-

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-460 Informal appeal of administrative actions. An informal appeal is an appeal to the department pursuant to chapter 34.05 RCW (Administrative Procedure Act).

(1) The department recommends that a person aggrieved by the issuance, denial, provisioning, or modification of an HPA contact the department employee responsible for making the decision on the HPA before initiating an informal appeal. Discussion of concerns with the department employee often results in a resolution of the problem without the need for an informal appeal.

(2) The department encourages aggrieved persons to take advantage of the informal appeal process before initiating a formal appeal. However, the informal appeal process is not mandatory, and a person may proceed directly to a formal appeal under WAC 220-660-470.

This rule does not apply to any provisions in pamphlet HPAs. A person who disagrees with a provision in a pamphlet HPA may apply for an individual, written HPA.

(3) Any person with legal standing may request an informal appeal of the following department actions:

(a) The issuance, denial, provisioning, or modification of an HPA; or

(b) An order imposing civil penalties.

(4) A request for an informal appeal must be in writing and must be received by the department within thirty days from the date of receipt of the decision or order. "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. A person's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the department, must constitute enough evidence of actual receipt. The date of actual receipt; however, may not exceed forty-five days from the date of mailing.

(5) A request for informal appeal must be submitted in one of the following ways:

(a) Mailed to the:

HPA Appeals Coordinator

Department of Fish and Wildlife

Habitat Program

((600 Capitol Way N.)) P.O. Box 43234

Olympia, ((Washington 98501-1091)) WA 98504-3234;

(b) Email: HPAapplications@dfw.wa.gov;

(c) Fax: 360-902-2946; or

(d) ((Hand delivered)) Hand delivered to the Natural Resources Building, 1111 Washington Street S.E., Habitat Program, Fifth Floor.

(6) The request must be plainly labeled as "Request for Informal Appeal" and must include the following:

(a) The appellant's name, address, email address (if available), and phone number;

(b) The specific department action that the appellant contests;

(c) The date the department issued, denied, provisioned, or modified an HPA, or the date the department issued the order imposing civil penalties;

(d) The log number or a copy of the HPA, or a copy of the order imposing civil penalties;

(e) A short and plain statement explaining why the appellant considers the department action or order to provide inadequate protection of fish life or to be otherwise unlawful;

(f) A clear and concise statement of facts to explain the appellant's grounds for appeal;

(g) Whether the appellant is the permittee, HPA applicant, landowner, resident, or another person with an interest in the department action in question;

(h) The specific relief requested;

(i) The attorney's name, address, email address (if available), and phone number, if the appellant is represented by legal counsel; and

(j) The signature of the appellant or his or her attorney.

(7) Upon receipt of a valid request for an informal appeal, the department may initiate a review of the department action.

(8) Informal conference. If the appellant agrees, and the appellant applied for the HPA, resolution of the appeal may be facilitated through an informal conference. The informal conference is an optional part of the informal appeal and is normally a discussion between the appellant, the department employee responsible for the decision, and a supervisor. The time period for the department to issue a decision on an informal appeal is suspended during the informal conference process.

(9) Informal appeal hearing. If the appeal is received from a person who is not the permittee, or if the appeal involves an order imposing civil penalties, or if a resolution is not reached through the informal conference process, then the HPA appeals coordinator or designee may conduct an informal appeal hearing or review. Upon completion of the informal appeal hearing or review, the HPA appeals coordinator or designee must recommend a decision to the director or designee. The director or designee must approve or decline to approve the recommended decision within sixty days of the date the department received the request for informal appeal, unless the appellant agrees to an extension of time. The department must notify the appellant in writing of the decision of the director or designee.

(10) If the department declines to initiate an informal review of its action after receipt of a valid request, or the appellant still wishes to contest the department action following completion of the informal appeal process, the appellant may initiate a formal appeal under WAC 220-660-470. Formal review must be requested within the time periods specified in WAC 220-660-470.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-470 Formal appeal of administrative actions. A formal appeal is an appeal to the pollution control hearings board pursuant to chapters 34.05 RCW and 371-08 WAC.

(1) The department recommends that a person aggrieved by the issuance, denial, provisioning, or modification of an HPA contact the department employee responsible for making the decision on the HPA before initiating a formal appeal.

Discussion of concerns with the department employee often results in a resolution of the problem without the need for a formal appeal.

(2) The department encourages aggrieved persons to take advantage of the informal appeal process under WAC 220-660-460 before initiating a formal appeal. However, the informal appeal process is not mandatory, and a person may proceed directly to a formal appeal.

This rule does not apply to any provisions in pamphlet HPAs. A person who disagrees with a provision in a pamphlet HPA may apply for an individual, written HPA.

(3) Any person with standing may request a formal appeal of the following department actions:

(a) The issuance, denial, provisioning, or modification of an HPA; or

(b) An order imposing civil penalties.

(4) As required by the Administrative Procedure Act, chapter 34.05 RCW, the department must inform the HPA permittee or applicant, or person subject to civil penalty order of the department, of the opportunity for appeal, the time within which to file a written request for an appeal, and the place to file it.

(5) A request for formal appeal must be in writing and must be filed with the clerk of the pollution control hearings board (PCHB) and served on the department within thirty days from the date of receipt of the decision or order. "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the department, must constitute enough evidence of actual receipt. The date of actual receipt; however, may not exceed forty-five days from the date of mailing.

(6) The request must be plainly labeled as "Request for Formal Appeal" and, pursuant to WAC 371-08-340, must include the following:

(a) The appellant's name, mailing address, email address (if available), and phone number; and if represented by another, the representative's name, mailing address, email address, and phone number;

(b) The specific department action that the appellant contests;

(c) The date the department issued, denied, provisioned, or modified an HPA, or the date the department issued the order imposing civil penalties;

(d) A copy of the order or permit you are appealing, and if appealing a permit decision, a copy of the permit application;

(e) A short and plain statement explaining why the appellant considers the department action or order to provide inadequate protection of fish life or to be otherwise unjust or unlawful;

(f) A clear and concise statement of facts to explain the appellant's grounds for appeal;

(g) Whether the appellant is the permittee, HPA applicant, landowner, resident, or another person with an interest in the department action in question;

(h) The specific relief requested;

(i) The signature of the appellant or his or her representative.

(7) Service on the department must be submitted in one of the following ways:

(a) Mailed to:

HPA Appeals Coordinator
Department of Fish and Wildlife
Habitat Program
((600 Capitol Way N.)) P.O. Box 43234
Olympia, ((Washington 98501-1094)) WA 98504-3234;

(b) Email: HPAApplications@dfw.wa.gov;

(c) Fax: 360-902-2946; or

(d) ((Hand-delivered)) Hand delivered to the Natural Resources Building, 1111 Washington Street S.E., Habitat Program, Fifth Floor.

(8) The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal must be within thirty days from the date of receipt of the department's written decision in response to the informal appeal.

(9) The department at its discretion may stay the effectiveness of any decision or order that has been appealed to the PCHB. The department will use the standards in WAC 371-08-415(4) to make a decision on any stay request. At any time during the appeal to the PCHB, the appellant may apply to the PCHB for a stay of the decision or order, or removal of a stay imposed by the department.

(10) If there is no timely request for an appeal, the department action will be final and nonappealable.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by February 13, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending WAC 388-78A-2020 to assure compliance with requirements of SSB 5600, which states the new definition of abuse to include exploitation of a vulnerable adult. It also defines chemical, mechanical, and physical restraint.

Reasons Supporting Proposal: See purpose statement above.

Statutory Authority for Adoption: Chapter 18.20 RCW.

Statute Being Implemented: RCW 74.34.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jeanette Childress, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2951.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are exempt as allowed under RCW 34.05.328 (5)(b)(iii), which states in part, "this section does not apply to ... Rules adopting or incorporating by reference without material change ... Washington state statutes"

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

January 18, 2018
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-05-035, filed 2/12/14, effective 3/15/14)

WAC 388-78A-2020 Definitions. "Abandonment" means action or inaction by a person with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

"Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a ((resident)) vulnerable adult. In instances of abuse of a ((resident)) vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a ((resident)) vulnerable adult, and improper use of restraint against a vulnerable adult, which have the following meanings:

(1) "((Mental)) Sexual abuse" means any ((willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a resident from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidat-

WSR 18-03-146
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)

[Filed January 22, 2018, 12:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-13-026.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-78A-2020 Definitions.

Hearing Location(s): On February 27, 2018, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sepa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than February 28, 2018.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., February 27, 2018.

~~ing, yelling, or swearing;)) form of nonconsensual sexual conduct, including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse also includes any sexual conduct between a staff person and a resident, who is not also a resident or a client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.~~

(2) "**Physical abuse**" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding((, or the use of chemical restraints or physical restraints;)).

(3) "**((Sexual)) Mental abuse**" means ((any form of nonconsensual sexual contact, including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual contact may include interactions that do not involve touching, including but not limited to sending a resident sexually explicit messages, or euing or encouraging a resident to perform sexual acts. Sexual abuse includes any sexual contact between a staff person and a resident, whether or not it is consensual;)) a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or screaming.

(4) "**Personal exploitation**" means an act of forcing, compelling, or exerting undue influence over a ((resident)) vulnerable adult causing the ((resident)) vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the ((resident)) vulnerable adult to perform services for the benefit of another.

(5) "**Improper use of restraint**" means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that:

(a) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW;

(b) Is not medically authorized; or

(c) Otherwise constitutes abuse under the section.

(6) "**Exploitation**" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

"**Activities of daily living**" means the following tasks related to basic personal care: Bathing; toileting; dressing; personal hygiene; mobility; transferring; and eating.

"**Administrator**" means an assisted living facility administrator who must be in active administrative charge of the assisted living facility as required in this chapter. Unless exempt under RCW 18.88B.041, the administrator must complete long-term care training and home care aide certification.

"**Adult day services**" means care and services provided to a nonresident individual by the assisted living facility on the assisted living facility premises, for a period of time not

to exceed ten continuous hours, and does not involve an overnight stay.

"**Ambulatory**" means capable of walking or traversing a normal path to safety without the physical assistance of another individual:

(1) "**Nonambulatory**" means unable to walk or traverse a normal path to safety without the physical assistance of another individual;

(2) "**Semiambulatory**" means physically and mentally capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another individual.

"**Applicant**" means ((the)) a person, as defined in this section, that has submitted, or is in the process of submitting, an application for ((a)) an assisted living facility license.

"**Assisted living facility**" means any home or other institution, however named, that is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with this chapter to seven or more residents after July 1, 2000. However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000, may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility. "Assisted living facility" may also include persons associated with the assisted living facility to carry out its duties under this chapter. "Assisted living facility" does not include facilities certified as group training homes under RCW 71A.22.040, nor any home, institution, or section that is otherwise licensed and regulated under state law that provides specifically for the licensing and regulation of that home, institution, or section. "Assisted living facility" also does not include independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the U.S. Department of Housing and Urban development.

"**Basic services**" means housekeeping services, meals, nutritious snacks, laundry, and activities.

"**Bathing fixture**" means a bathtub, shower or sit-down shower.

"**Bathroom**" means a room containing at least one bathing fixture.

(("**Assisted living facility**" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with this chapter to seven or more residents after July 1, 2000. However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000, may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility. "Assisted living facility" does not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing.

~~independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the Department of Housing and Urban Development. "Assisted living facility" may also include persons associated with the assisted living facility to carry out its duties under this chapter.)~~

"Building code" means the building codes and standards adopted by the Washington state building code council.

"Caregiver" means anyone providing direct personal care to another person including, but not limited to: Cuing, reminding, or supervision of residents, on behalf of an assisted living facility, except volunteers who are directly supervised.

"Construction review services" means the office of construction review services within the Washington state department of health.

"Continuing care contract" means, as stated in RCW 70.38.025, a contract providing a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

"Continuing care retirement community" means, as stated in RCW 70.38.025, an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service.

"Contractor" means an agency or person who contracts with a licensee to provide resident care, services, or equipment.

"Crimes relating to financial exploitation" means the same as "crimes relating to financial exploitation" as defined in RCW 43.43.830 or 43.43.842.

"Department" means the Washington state department of social and health services.

"Dietitian" means an individual certified under chapter 18.138 RCW.

"Direct supervision" means oversight by a person on behalf of the assisted living facility who has met training requirements, demonstrated competency in core areas, or has been fully exempted from the training requirements, is on the premises, and is quickly and easily available to the caregiver.

"Document" means to record, with signature, title, date, and time:

(1) Information about medication administration, medication assistance or disposal, a nursing care procedure, accident, occurrence or change in resident condition that may affect the care or needs of a resident; and

(2) Processes, events, or activities that are required by law, rule, or policy.

"Domiciliary care" means:

(1) Assistance with activities of daily living provided by the assisted living facility either directly or indirectly; ((or))

(2) Health support services, if provided directly or indirectly by the assisted living facility; or

(3) Intermittent nursing services, if provided directly or indirectly by the assisted living facility.

"Enforcement remedy" means one or more of the department's responses to an assisted living facility's non-compliance with chapter 18.20 RCW and this chapter, as authorized by RCW 18.20.190.

"Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34.020(6).

"Food service worker" means according to chapter 246-217 WAC, an individual who works (or intends to work) with or without pay in a food service establishment and handles unwrapped or unpackaged food or who may contribute to the transmission of infectious diseases through the nature of ((his/her)) the individual's contact with food products ((and/or)) or equipment and facilities. This does not include persons who simply assist residents with meals.

"General responsibility for the safety and well-being of the resident" means the provision of any one or more of the following:

- (1) Prescribed general low sodium diets;
- (2) Prescribed general diabetic diets;
- (3) Prescribed mechanical soft foods;
- (4) Emergency assistance;
- (5) Monitoring of the resident;

(6) Arranging health care appointments with outside health care providers and reminding residents of such appointments as necessary;

(7) Coordinating health care services with outside health care providers consistent with WAC 388-78A-2350;

(8) Assisting the resident to obtain and maintain glasses, hearing aids, dentures, canes, crutches, walkers, wheelchairs, and assistive communication devices;

(9) Observation of the resident for changes in overall functioning;

(10) Blood pressure checks as scheduled;

(11) Responding appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning; ((or))

(12) Medication assistance as permitted under RCW 69.41.085 and as described in RCW 69.41.010 and chapter 246-888 WAC.

"Harm" means a physical or mental or emotional injury or damage to a resident including those resulting from neglect or violations of a resident's rights.

"Health support services" means any of the following optional services:

- (1) Blood glucose testing;
- (2) Puree diets;
- (3) Calorie controlled diabetic diets;
- (4) Dementia care;
- (5) Mental health care; ((or))
- (6) Developmental disabilities care.

"Independent living unit" means:

- (1) Independent senior housing;

(2) Independent living unit in a continuing care retirement community or other similar living environments;

(3) Assisted living facility unit where domiciliary services are not provided; or

(4) Assisted living facility unit where one or more items listed under "general responsibilities" are not provided.

"Independent senior housing" means an independent living unit occupied by an individual or individuals sixty or more years of age.

"Infectious" means capable of causing infection or disease by entrance of organisms into the body, which grow and multiply there, including, but not limited to, bacteria, viruses, protozoans, and fungi.

"Licensee" means ((the)) a person, as defined in this ((chapter)) section, to whom the department issues ((the)) an assisted living facility license.

"Licensed resident bed capacity" means the resident occupancy level requested by ((the)) a licensee and approved by the department. All residents receiving domiciliary care or the items or services listed under general responsibility for the safety and well-being of the resident as defined in this section count towards the licensed resident bed capacity. Adult day services clients do not count towards the licensed resident bed capacity.

"Long-term care worker((;))" ((as)) or "caregiver" means the same as "long-term care workers" is defined in RCW 74.39A.009((, has the same meaning as the term "caregiver.")).

"Majority owner" means any person that owns:

(1) More than fifty percent interest; ((or))

(2) If no one person owns more than fifty percent interest, the largest interest portion; or

(3) If more than one person owns equal largest interest portions, then all persons owning those equal largest interest portions.

"Manager" means ((the)) a person, as defined in this ((chapter)) section, ((providing)) that provides management services on behalf of ((the)) a licensee.

"Management agreement" means a written, executed agreement between ((the)) a licensee and ((the)) manager regarding the provision of certain services on behalf of the licensee.

"Mandated reporter((;)):"

(1) Is an employee of the department, law enforcement officer, social worker, professional school personnel, individual provider, ((an)) employee of a facility, ((an)) operator of a facility, ((an)) employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency, county coroner or medical examiner, Christian Science practitioner, or health care provider subject to chapter 18.130 RCW; and

(2) For the purpose of the definition of mandated reporter, "facility" means a residence licensed or required to be licensed under chapter 18.20 RCW (assisted living facility), chapter 18.51 RCW (nursing homes), chapter 70.128 RCW (adult family homes), chapter 72.36 RCW (soldiers' homes), chapter 71A.20 RCW (residential habilitation centers), or any other facility licensed by the department.

"Maximum facility capacity" means the maximum number of individuals that the assisted living facility may serve at any one time, as determined by the department.

(1) The maximum facility capacity includes all residents ((and)), respite care residents, and adult day services clients.

(2) The maximum facility capacity is equal to the lesser of:

(a) The sum of the number of approved bed spaces for all resident rooms (total number of approved bed spaces), except as specified in subsection (3) of this section; ((or))

(b) Twice the seating capacity of the dining area(s) consistent with WAC ((388-78A-2300 (1)(h))) 388-78A-2300 (1)(h); ((or))

(c) The number of residents permitted by calculating the ratios of toilets, sinks, and bathing fixtures to residents consistent with WAC 388-78A-3030; ((or))

(d) For assisted living facilities licensed on or before December 31, 1988, the total day room area in square feet divided by ten square feet, consistent with WAC 388-78A-3050; or

(e) For assisted living facilities licensed after December 31, 1988, the total day room area in square feet divided by twenty square feet, consistent with WAC 388-78A-3050.

(3) For the purposes of providing adult day services consistent with WAC 388-78A-2360, one additional adult day services client may be served, beyond the total number of approved bed spaces, for each additional sixty square feet of day room area greater than the area produced by multiplying the total number of approved bed spaces by twenty square feet, provided that:

(a) There is at least one toilet and one hand washing sink accessible to adult day services clients for every eight adult day services clients or fraction thereof;

(b) The total number of residents and adult day services clients does not exceed twice the seating capacity of the dining area(s) consistent with WAC 388-78A-2300 (1)(h); and

(c) The adult day services program area(s) and building do not exceed the occupancy load as determined by the local building official or state fire marshal.

"Medication administration" means the direct application of a prescribed medication whether by injection, inhalation, ingestion, or other means, to the resident's body ((of the resident)) by an individual legally authorized to do so.

"Medication assistance" means assistance with self-administration of medication rendered by a nonpractitioner to a resident of an assisted living facility in accordance with chapter 246-888 WAC.

"Medication organizer" means a container with separate compartments for storing oral medications organized in daily doses.

"Medication service" means any service provided either directly or indirectly by an assisted living facility related to medication administration, medication administration provided through nurse delegation, medication assistance, or resident self-administration of medication.

"Neglect" means:

(1) A pattern of conduct or inaction resulting in the failure to provide the goods and services that maintain physical or mental health of a resident, or that fails to avoid or prevent physical or mental harm or pain to a resident; or

(2) An act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the resident's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

"Nonresident individual" means an individual who resides in independent senior housing, independent living units in continuing care retirement communities, ((or in)) other similar living ((environments)) environment, or ((in)) an unlicensed room located within an assisted living facility. A nonresident individual ((may)) must not receive from the assisted living facility:

(1) Domiciliary care directly or indirectly; or

(2) ((The)) Items or services listed in the definition of "general responsibility for the safety and well-being of the resident(((")), except as allowed under WAC 388-78A-2032 or when the person is receiving adult day services.

"Nonpractitioner" means any individual who is not a practitioner as defined in WAC 388-78A-2020 and chapter 69.41 RCW.

"Nurse" means an individual currently licensed under chapter 18.79 RCW as either a:

- (1) ((("))) Licensed practical nurse((("))) (LPN); or
- (2) ((("))) Registered nurse((("))) (RN).

"Over-the-counter (OTC) medication" means any medication that may be legally purchased without a prescriptive order, including, but not limited to, aspirin, antacids, vitamins, minerals, or herbal preparations.

"Person" means any individual, firm, partnership, corporation, company, association, joint stock association or any other legal or commercial entity.

"Physician" means an individual licensed under chapter 18.57 or 18.71 RCW.

"Practitioner" includes a licensed physician, osteopathic physician, podiatric physician, pharmacist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, dentist, and physician assistant. Refer to chapter 69.41 RCW for a complete listing of practitioners.

"Prescribed medication" means any medication (legend drug, controlled substance, and over-the-counter) that is prescribed by an authorized practitioner.

"Prescriber" means a health care practitioner authorized by Washington state law to prescribe drugs.

"Problem" means a violation of any WAC or RCW applicable to the operation of an assisted living facility:

(1) **"Recurring problem"** means, for all purposes other than those described in RCW 18.20.400, that the department has cited the assisted living facility for a violation of WAC or RCW and the circumstances of either (a) or (b) of this subsection are present((:)). If the previous violation in (a) or (b) of this subsection was pursuant to WAC or RCW that has changed at the time of the new violation, citation to the equivalent current WAC or RCW section is sufficient. When there is a change in licensees between the first and the second or third citations, the new licensee must accept, and the department will consider, the prior licensee's compliance and enforcement record as part of the new licensee's compliance record at that assisted living facility if any person affiliated with the new licensee was affiliated with the prior licensee at the same assisted living facility. A person is considered affil-

iated with the licensee if the person is an applicant for the assisted living facility license, or is listed on the license application as a partner, officer, director, or majority owner of the applicant.

(a) The department previously imposed an enforcement remedy for a violation of the same section of WAC or RCW for substantially the same problem following any type of inspection within the preceding thirty-six months((; or)).

(b) The department previously cited a violation under the same section of WAC or RCW for substantially the same problem following any type of inspection on two occasions within the preceding thirty-six months.

((e)) If the previous violation in (a) or (b) of this subsection was pursuant to WAC or RCW that has changed at the time of the new violation, citation to the equivalent current WAC or RCW section is sufficient.

(d) When there is a change in licensees between the first and the second or third citations, the new licensee must accept, and the department will consider, the prior licensee's compliance and enforcement record as part of the new licensee's compliance record at that assisted living facility if any person affiliated with the new licensee was affiliated with the prior licensee at the same assisted living facility. A person is considered affiliated with the licensee if the person is an applicant for the assisted living facility license, or is listed on the license application as a partner, officer, director, or majority owner of the applicant.)

(2) **"Serious problem"** means((:

((a))) that there has been a violation of a WAC or RCW((;)) and:

((b)) Significant harm has actually occurred to a)) (a) The resident was significantly harmed; or

((e))) (b) It is likely that ((significant harm)) the resident will be significantly harmed or ((death will occur to a resident)) die.

(3) **"Uncorrected problem"** means the department has cited a violation of WAC or RCW following any type of inspection and the violation remains uncorrected at the time the department makes a subsequent inspection for the specific purpose of verifying whether such violation has been corrected. When there is a change in ((licensees occurs)) licensee, the new licensee is responsible for correcting any remaining violations that may exist, including complying with any plan of correction in effect immediately prior to the change in ((licensees)) licensee.

"Prospective resident" means an individual who ((is seeking)) seeks admission to a licensed assisted living facility and ((who)) has completed and signed an application for admission, or ((such application for admission has been completed and signed in their behalf by their)) the individual's legal representative ((if any, and if not, then the)) or designated representative, if any, completed and signed the application on their behalf.

"Reasonable accommodation" ((and)) or **"reasonably accommodate"** have the meaning given in federal and state antidiscrimination laws and regulations which include, but are not limited to, the following:

(1) Reasonable accommodation means that the assisted living facility must:

(a) Not impose admission criteria that excludes individuals unless the criteria is necessary for the provision of assisted living facility services;

(b) Make reasonable modification to its policies, practices or procedures if the modifications are necessary to accommodate the needs of the resident;

(c) Provide additional aids and services to the resident.

(2) Reasonable accommodations are not required if:

(a) The resident or individual applying for admission presents a significant risk to the health or safety of others that cannot be eliminated by the reasonable accommodation;

(b) The reasonable accommodations would fundamentally alter the nature of the services provided by the assisted living facility; or

(c) The reasonable accommodations would cause an undue burden, meaning a significant financial or administrative burden.

"RCW" means Revised Code of Washington.

"Records" means:

(1) **"Active records"** means the current, relevant documentation regarding residents necessary to provide care and services to residents; or

(2) **"Inactive records"** means historical documentation regarding the provision of care and services to residents that is no longer relevant to the current delivery of services and has been thinned from the active record.

"Resident" means an individual who:

(1) Chooses to reside in an assisted living facility, including an individual receiving respite care;

(2) Is not related by blood or marriage to the operator of the assisted living facility;

(3) Receives basic services; and

(4) Receives one or more of the services listed in the definition of "general responsibility for the safety and well-being of the resident," and may receive domiciliary care or respite care provided directly, or indirectly, by the assisted living facility. Whereas, a nonresident individual may receive services that are permitted under WAC 388-78A-2032.

"Resident's representative" means one of the following:

(1) The legal representative who is the person or persons identified in RCW 7.70.065 and who may act on behalf of the resident pursuant to the scope of their legal authority. The legal representative ((shall)) must not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident((;-or)).

(2) If there is no legal representative, a person designated voluntarily by a competent resident in writing, to act in the resident's behalf concerning the care and services provided by the assisted living facility and to receive information from the assisted living facility if there is no legal representative. The resident's representative ((may)) must not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident. The resident's representative under this subsection ((shall)) must not have authority to act on behalf of the resident once the resident is no longer competent. The resident's competence ((shall)) must be determined using the criteria in RCW ((11.88.010 (1)(e))) 11.88.010 (1)(e).

"Respite care" means short-term care for any period in excess of twenty-four continuous hours for a resident to temporarily relieve the family or other caregiver of providing that care.

"Restraint" means any method or device used to prevent or limit free body movement, including, but not limited to:

(1) Confinement, unless agreed to as provided in WAC 388-78A-2370;

(2) **"Chemical restraint"** ((which)) means ((a psycho-pharmacologie)) the administration of any drug ((that is used for discipline or convenience and not required)) to ((treat the resident's medical symptoms; and)) manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(3) **"((Physical)) Mechanical restraint"** ((which)) means ((a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body, is used for discipline or convenience, and not required to treat the resident's medical symptoms)) any device attached or adjacent to the vulnerable adult's body that they cannot easily remove and restricts freedom of movement or normal access to the vulnerable adult's body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are:

(a) Medically authorized, as required, and;

(b) Used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

"Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include:

(a) Briefly holding without undue force a vulnerable adult in order to calm or comfort the vulnerable adult; or

(b) Holding a vulnerable adult's hand to safely escort the vulnerable adult from one area to another.

"Room" means a space set apart by floor to ceiling partitions on all sides with all openings provided with doors or windows.

(1) **"Sleeping room"** means a room where a resident is customarily expected to sleep and contains a resident's bed.

(2) **"Resident living room"** means the common space in a resident unit that is not a sleeping room, bathroom, or closet.

"Significant change" means a change in the resident's physical, mental, or psychosocial status that causes either life-threatening conditions or clinical complications.

"Special needs" means a developmental disability, mental illness, or dementia.

"Staff person" means any assisted living facility employee ((or)), temporary employee, or contractor, whether employed or retained by the licensee or any management company((;)) or volunteer.

"State fire marshal" means the director of fire protection under the direction of the chief of the Washington state patrol.

"Toilet" means a disposal apparatus used for urination and defecation((;)) fitted with a seat and flushing device.

"Volunteer" means an individual who interacts with residents without reimbursement.

"Vulnerable adult" includes a person:

(1) Sixty years of age or older who has the functional, mental, or physical inability to care for ((himself or herself)) themselves; ((or))

(2) Found incapacitated under chapter 11.88 RCW; ((or))

(3) Who has a developmental disability as defined under RCW 71A.10.020; ((or))

(4) Admitted to any facility, including any assisted living facility; ((or))

(5) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; ((or))

(6) Receiving services from an individual provider((;)); or

(7) For the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, ((it shall also include adults)) includes a person who is an adult of any age who ((lack)) lacks the functional, mental, or physical ability to care for themselves.

"WAC" means Washington Administrative Code.

"Wellness program" means an educational program provided by the assisted living facility. It is a proactive and preventative approach to assist residents and nonresident individuals in achieving optimal levels of health, social, and emotional functioning. A wellness program does not include medical care or interventions.

"Willful" means the deliberate, or nonaccidental((;)) action or inaction by an alleged perpetrator that ((he/she)) the alleged perpetrator knows or reasonably should have known could cause a negative outcome, including harm, injury, pain, or anguish.

"WISHA" means the Washington Industrial Safety and Health Act, chapter 49.17 RCW administered by the Washington state department of labor and industries.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-97-1000 Resident assessment.

Hearing Location(s): On February 27, 2018, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sepa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than February 28, 2018.

Submit Written Comments to: DHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DHSRPAU_RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., February 27, 2018.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by February 13, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-97-1000 to extend the timeline for a nursing home to transmit required resident assessment instrument (RAI) information for its residents from ten to fourteen days, in order to match federal regulations.

Reasons Supporting Proposal: Federal regulations allow fourteen days for nursing homes to transmit RAI; state rules should match.

Statutory Authority for Adoption: Chapter 74.42 RCW.

Statute Being Implemented: 42 C.F.R. 483.20.

Rule is necessary because of federal law, 42 C.F.R. 483.20.

Name of Proponent: DHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Teva Weissman, P.O. Box 45600, Olympia, WA 98506, 360-725-2327.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Rule is exempt under 34.05.328 (5)(b)(iii), rules adopting or incorporating by reference without material change federal statutes or regulations.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: 42 C.F.R. 483.20, Resident assessment.

January 18, 2018
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-04-093, filed 2/6/13, effective 3/9/13)

WAC 388-97-1000 Resident assessment. (1) The nursing home must:

WSR 18-03-147 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Aging and Long-Term Support Administration)

[Filed January 22, 2018, 1:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-21-087.

(a) Provide resident care based on a systematic, comprehensive, interdisciplinary assessment, and care planning process in which the resident participates, to the fullest extent possible;

(b) Conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity;

(c) At the time each resident is admitted:

(i) Have physician's orders for the resident's immediate care; and

(ii) Ensure that the resident's immediate care needs are identified in an admission assessment.

(d) Ensure that the comprehensive assessment of a resident's needs describes the resident's capability to perform daily life functions and significant impairments in functional capacity.

(2) The comprehensive assessment must include at least the following information:

(a) Identification and demographic information;

(b) Customary routine;

(c) Cognitive patterns;

(d) Communication;

(e) Vision;

(f) Mood and behavior patterns;

(g) Psychosocial well-being;

(h) Physical functioning and structural problems;

(i) Continence;

(j) Disease diagnosis and health conditions;

(k) Dental and nutritional status;

(l) Skin conditions;

(m) Activity pursuit;

(n) Medications;

(o) Special treatments and procedures;

(p) Discharge potential;

(q) Documentation of summary information regarding the assessment performed; and

(r) Documentation of participation in assessment.

(3) The nursing home must conduct comprehensive assessments:

(a) No later than fourteen days after the date of admission;

(b) Promptly after a significant change in the resident's physical or mental condition; and

(c) In no case less often than once every twelve months.

(4) The nursing home must ensure that:

(a) Each resident is assessed no less than once every three months, and as appropriate, the resident's assessment is revised to assure the continued accuracy of the assessment; and

(b) The results of the assessment are used to develop, review and revise the resident's comprehensive plan of care under WAC 388-97-1020.

(5) The skilled nursing facility and nursing facility must:

(a) For the required assessment, complete the state approved resident assessment instrument (RAI) for each resident in accordance with federal requirements;

(b) Maintain electronic or paper copies of completed resident assessments in the resident's active medical record for fifteen months; this information must be maintained in a centralized location and be easily and readily accessible;

(c) Place the hard copies of the signature pages in the clinical record of each resident if a facility maintains their RAI data electronically and does not use electronic signatures;

(d) Assess each resident not less than every three months, using the state approved assessment instrument; and

(e) Transmit all state and federally required RAI information for each resident to the department:

(i) In a manner approved by the department;

(ii) Within ((ten)) fourteen days of completion of any RAI assessment required under this subsection; and

(iii) Within ((ten)) fourteen days of discharging or admitting a resident for a tracking record.

WSR 18-03-149

PROPOSED RULES

COMMUNITY COLLEGES

OF SPOKANE

[Filed January 22, 2018, 1:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-22-133.

Title of Rule and Other Identifying Information: Public records: WAC 132Q-276-010, 132Q-276-020, 132Q-276-030, 132Q-276-040, 132Q-276-050, 132Q-276-060, 132Q-276-080, 132Q-276-090, and 132Q-276-100.

Hearing Location(s): On March 20, 2018, at 8:30 a.m., at 3305 West Fort George Wright Drive, Spokane, WA.

Date of Intended Adoption: March 20, 2018.

Submit Written Comments to: John O'Rourke, 501 North Riverpoint Boulevard, Mailstop 1006, Spokane, WA 99217-6000, email john.orourke@ccs.spokane.edu, fax 509-434-5279, by March 13, 2018.

Assistance for Persons with Disabilities: Contact John O'Rourke, phone 509-434-5185, fax 509-434-5279, TTY 509-434-5275, email john.orourke@ccs.spokane.edu, by March 13, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: (1) To comply with EHB 1595 and RCW 42.56.120, it is necessary to update this code; (2) it is unduly burdensome for the Community Colleges of Spokane (CCS) to calculate actual costs for copying records to fulfill public records requests; and (3) pursuant to RCW 42.56.120, these changes will allow CCS to be reimbursed the costs associated with fulfilling its duties under the Public Records Act.

Reasons Supporting Proposal: To comply with EHB 1595 and RCW 42.56.120.

Statutory Authority for Adoption: RCW 28B.50.140, 42.56.040, [42.56].120.

Statute Being Implemented: RCW 42.56.040.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: CCS, governmental.

Name of Agency Personnel Responsible for Drafting: Jason Brown AAG, Spokane, Washington, 509-456-7665;

Implementation and Enforcement: Lisa Hjaltalin, Spokane, Washington, 509-434-5275.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. CCS is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.030.

January 22, 2018

John O'Rourke

Grants and Contracts Manager

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-010 Purpose. The purpose of this chapter shall be to insure compliance by Washington Community College District 17 with the provisions of chapter ((42.17)) 42.56 RCW, ((Disclosure—Campaign finance—Lobbying—Records: And, in particular, with RCW 42.17.250—42.17.340 dealing with public records)) the Public Records Act.

AMENDATORY SECTION (Amending WSR 04-10-065, filed 4/30/04, effective 5/31/04)

WAC 132Q-276-020 Definitions. (1) "**Public record**" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(2) "**Writing**" means handwriting, typewriting, printing, photocopying, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings and other documents including existing data compilations from which information may be obtained or translated.

(3) "**Washington State Community College District 17**" is a state agency created and organized by statute pursuant to RCW 28B.50.040, and shall hereinafter be referred to as the "district." Where appropriate, the term "district" shall also refer to college personnel and board of trustees of the district.

(4) "**District facilities**" of Washington State Community College District 17 include any or all real property owned, operated or maintained by the board of trustees of Community Colleges of Spokane, and shall include all buildings and appurtenances affixed thereto or attached thereto.

AMENDATORY SECTION (Amending WSR 13-15-154, filed 7/23/13, effective 8/23/13)

WAC 132Q-276-030 Central and field organization.

Washington State Community College District 17 is a community college district organized under RCW 28B.50.040. The administrative office of the district and its staff is located at 501 North Riverpoint Boulevard, P.O. Box 6000, Spokane, Washington, 99217-6000. The district operates two colleges, Spokane Community College, located at ((2000)) 1810 North Greene Street, Spokane, Washington, ((99217-5499)) 99217-5399; and Spokane Falls Community College, located at 3410 West Fort George Wright Drive, Spokane, Washington, 99224-5288. The district also delivers instructional programming in the counties of Ferry, Lincoln (except Consolidated School District 105-157-166J and the Lincoln County portion of Common School District 167-202), Pend Oreille, Spokane, Stevens, and Whitman.

AMENDATORY SECTION (Amending WSR 04-10-065, filed 4/30/04, effective 5/31/04)

WAC 132Q-276-040 Operations and procedures.

Washington State Community College District 17 is established under RCW 28B.50.040 to implement the educational purposes established by RCW 28B.50.020. District 17 is operated under the supervision and control of a board of trustees appointed by the governor as provided in RCW 28B.50.100. The chief administrative officer of the district is the chancellor/chief executive officer, who also serves as secretary to the board of trustees. The day-to-day operation of the district, pursuant to policy established and approved by the board of trustees, is implemented through the office of the chancellor/chief executive officer or designee.

The board of trustees meets the third Tuesday of each month at 8:30 a.m. ((in the board room of the Spokane Community College administrative offices located at 2000 North Greene Street, Spokane, Washington, 99217-5499)) at the Lodge Building, 3305 West Fort George Wright Drive, Spokane, Washington, 99224, unless public notice is given of a special meeting. At such time, the trustees exercise the powers and duties granted to the board by RCW 28B.50.140.

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-050 Public records available. All public records of the district, as defined in WAC 132Q-276-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW ((42.17.310)) 42.56.210 and WAC 132Q-276-100.

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-060 Public records officer. ((The district's public records shall be in the charge and control of the public records officer designated by the district president. The person so designated shall be located in the administrative office of the district. The public records officer shall be responsible for implementing the district's rules and regula-

~~tions regarding release of public records, coordinating the staff of the district in this regard, and generally insuring compliance by the staff with the public records disclosure of chapter 42.17 RCW-)) (1) Any person wishing to request access to public records of District 17, or seeking assistance in making such a request should contact the public records officer of District 17. Throughout this chapter, references to the public records officer shall mean the public records officer or his/her designee.~~

(2) Contact information:

Public Records Officer
Community Colleges of Spokane
P.O. Box 6000
Spokane, WA 99217-6000
Phone: 509-434-5275
Fax: 509-434-5279
Email: publicrecords@ccs.spokane.edu

(3) Information is also available at the Community Colleges of Spokane web site at <http://www.ccs.spokane.edu/getdoc/696748c1-fee0-4f18-8777-a3ac9ea1cb95/prr.aspx>.

(4) The public records officer and District 17 shall assist requestors, comply with chapter 42.56 RCW, the Public Records Act, and provide public records training and assistance to college employees.

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-080 Requests for public records. In accordance with requirements of RCW ((42.17.290)) 42.56.100, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the district which shall be available at its administrative office and online at [http://www.ccs.spokane.edu/getdoc/f7dfbca0-8837-4866-af04-da9b18477a8c/ccs.2136-\(1\).aspx](http://www.ccs.spokane.edu/getdoc/f7dfbca0-8837-4866-af04-da9b18477a8c/ccs.2136-(1).aspx). The form shall be presented to the public records officer or to any member of the district's administrative staff, if the public records officer is not available, at the district office during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the records;
- (b) The address of the person requesting the records;
- (c) Other contact information, including telephone number and any email address;
- (d) Adequate identification of the public records for the public records office to locate the records;
- (e) The date and time of day ((and calendar date on which the request was made);
- (e) The nature of the request;
- (d) The matter requested as referenced within the current index maintained by the records officer, or if the matter is not identifiable by reference in the district's current index, an

~~appropriate description of the record requested)) of the request.~~

(f) A verification that the records requested shall not be used to compile a commercial sales list.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or other staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending WSR 04-10-065, filed 4/30/04, effective 5/31/04)

WAC 132Q-276-090 ((Copying)) Costs of providing copies of public records. ~~((No fee shall be charged for the inspection of public records of Washington State Community College District 17. The district may charge a fee per page for providing copies of public records, for use of the district's copy equipment and postage. This charge shall be an amount necessary to reimburse the district for its actual costs directly incident to such copying)) (1) The following copy fees and payment procedures apply to public records requests made after the effective date of this rule.~~

(2) Pursuant to RCW 42.56.120 (2)(b), District 17 is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The district does not have the resources to conduct a study to determine all its actual copying costs;

(b) It is difficult to calculate all costs directly incident to copying records; and

(c) To conduct such a study would interfere with other essential district functions.

(3) Costs of copies. No fees shall be charged for the inspection of public records of Washington State Community College District 17. The district will charge for copies of public records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The district will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the district may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The district may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the district are summarized in the fee schedule available on the district's web site at <http://www.ccs.spokane.edu/getdoc/696748c1-fee0-4f18-8777-a3ac9ea1cb95/prr.aspx>.

(4) Requestors are required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when: (i) All of the records responsive to an entire request are paper copies only and are twenty or fewer pages; or (ii) all of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of twenty pages. If that email for any reason is not deliverable, records will be produced in accordance with this rule.

(b) Fee waivers are not applicable to records requested in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The district will notify the requestor when payment is due.

(7) Payment should be made by check, credit card, or money order to the Community Colleges of Spokane. The district prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

(8) The district will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

AMENDATORY SECTION (Amending WSR 83-10-004, filed 4/22/83)

WAC 132Q-276-100 Exemptions. (1) The district reserves the right to determine that the public record requested in accordance with the procedures outlined in WAC 132Q-276-080 is exempt under the provisions of chapter ((42.17)) 42.56 RCW.

(2) In addition, pursuant to RCW ((42.17.260)) 42.56.-070, the district reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter ((42.17)) 42.56 RCW. The public records officer shall fully justify any such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

WSR 18-03-150 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Children's Administration) [Filed January 22, 2018, 1:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-24-073.

Title of Rule and Other Identifying Information: The department is proposing to repeal existing sections and create new sections in chapter 388-61A WAC, Domestic violence victim services and prevention efforts.

Hearing Location(s): On March 13, 2018, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sepa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>.

Date of Intended Adoption: Not earlier than March 14, 2018.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., March 13, 2018.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email Kildaja@dshs.wa.gov, by February 27, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to repeal existing sections and create new sections in chapter 388-61A WAC in order to incorporate new and revised requirements mandated by chapter 70.123 RCW and the federal Family Violence Prevention and Services Act grant. A crosswalk table of existing and new WAC sections is available upon request.

Reasons Supporting Proposal: These changes are being proposed in order to comply with statutory changes to chapter 70.123 RCW and new requirements in the federal Family Violence Prevention and Services Act grant administered by DSHS.

Statutory Authority for Adoption: Chapter 70.123 RCW.

Statute Being Implemented: Chapter 70.123 RCW.

Rule is necessary because of federal law, 45 C.F.R. Part 1370.4 (g)(1).

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Susan Hannibal, P.O. Box 45710, Olympia, WA 98504-5710, 360-902-8493.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05-328. A preliminary cost-benefit analysis may be obtained by contacting Susan Hannibal, P.O. Box 45710, Olympia, WA 98405-5710, phone 360-902-8493, email hsus300@dshs.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Citation and description 45 C.F.R. Part 1370.4 (g)(1).

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

January 18, 2018

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 18-04 issue of the Register.

WSR 18-03-153
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Board of Optometry)
 [Filed January 23, 2018, 9:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-07-101.

Title of Rule and Other Identifying Information: WAC 246-851-505 Temporary practice permit—Military spouse, eligibility and issuance. The board of optometry (board) proposes adding a new section to provide for temporary permits for military spouses or state-registered domestic partners who hold out-of-state credentials as optometrists while they complete additional requirements not related to training or practice standards.

Hearing Location(s): On March 23, 2018, at 10:00 a.m., at the Washington Department of Health, Kent Regional Office, 20425 72nd Avenue South, Building 2, Suite 310, Room 307, Kent, WA 98032.

Date of Intended Adoption: March 23, 2018.

Submit Written Comments to: Loralei Walker, Board of Optometry, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2901, <https://public.govdelivery.com/accounts/WADOH/subscriber/new>, by March 9, 2018.

Assistance for Persons with Disabilities: Contact Loralei Walker, phone 360-236-4947, TTY 360-833-6388 or 711, email loralei.walker@doh.wa.gov, by March 9, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule describes the process to issue a temporary practice permit to a military spouse or state-registered domestic partner applicant who moved to Washington state because of the transfer of the military person, and where the applicant must complete specific additional licensing requirements in Washington state. The applicant must be credentialed in another state with substantially equivalent standards and meet other specific criteria.

Reasons Supporting Proposal: RCW 18.340.020 provides that military spouses may receive temporary permits while completing any specific additional requirements in Washington that are not related to a profession's training or practice standards. The proposed rule describes the requirements to obtain the temporary practice permit. The permit allows the person to work in the full scope of the profession for up to one hundred eighty days.

Statutory Authority for Adoption: RCW 18.54.070(2).

Statute Being Implemented: RCW 18.340.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Board of optometry, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Loralei Walker, Tumwater, 360-236-4947.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii)

exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

January 23, 2018
 Dale Heaston, OD, Chair
 Board of Optometry

NEW SECTION

WAC 246-851-505 Temporary practice permit—Military spouse. A military spouse or state registered domestic partner of a military person may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for the profession. The board adopts the procedural rules as adopted by the department of health in WAC 246-12-051.

WSR 18-03-165
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 13-08—Filed January 23, 2018, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-22-07 [13-22-073].

Title of Rule and Other Identifying Information: Chapter 173-350 WAC, Solid waste handling standards, the rules in this chapter pertain to nonhazardous solid waste, and facilities that manage nonhazardous solid waste, except municipal solid waste landfills.

Hearing Location(s): On March 6, 2018, at 9:00 a.m., in person and by webinar at Ecology Headquarters, 300 Desmond Drive, Lacey, WA 98503; or Ecology Northwest Regional Office, 3190 160th Avenue S.E., Bellevue, WA 98008. The hearing begins at 9:00 a.m. with a brief presentation and question and answer session, followed by the formal hearing and testimony.

You may attend at one of the listed locations, or participate remotely by webinar.

A webinar is an online meeting forum that you can attend from any computer using internet access. To join the webinar, click on the following link for more information and instructions <https://watech.webex.com/watech/j.php?MTID=m94a01659810819e31fd7c2d1db093317>.

Meeting Number: 804 165 501.

Meeting Password: Ecology1.

For audio only, call United States toll number 1-650-479-3208 or toll-free 1-877-668-4493 and enter access code 804 165 501. Or to receive a free call back, provide your phone number when you join the event.

On March 9, 2018, at 9:00 a.m., in person and by webinar at Ecology Central Regional Office, 1250 West Alder Street, Union Gap, WA 98903; or Ecology Eastern Regional Office, 4601 North Monroe Street, Spokane, WA 99205. The hearing begins at 9:00 a.m. with a brief presentation and question and answer session, followed by the formal hearing and testimony.

You may attend at one of the listed locations, or participate remotely by webinar.

A webinar is an online meeting forum that you can attend from any computer using internet access. To join the webinar, click on the following link for more information and instructions <https://watech.webex.com/watech/j.php?MTID=mf0c938692688a15bda43b5f59841845a>.

Meeting Number: 802 522 807.

Meeting Password: Ecology1.

For audio only, call United States toll number 1-650-479-3208 or toll-free 1-877-668-4493 and enter access code 802 522 807. Or to receive a free call back, provide your phone number when you join the event.

Date of Intended Adoption: April 25, 2018.

Submit Written Comments to: Kyle Dorsey, P.O. Box 47600, Olympia, WA 98504-7600 (U.S. mail), 300 Desmond Drive S.E., Lacey, WA 98503 (parcel delivery services), online form <http://wt.ecology.commentinput.com/?id=N3EMG>, by March 20, 2018. Please submit comments online, by mail, or at one of the public hearings.

Assistance for Persons with Disabilities: Contact Hanna Waterstrat, phone 360-407-7668, fax 360-407-6137, TTY 877-833-6341, email hwat461@ecy.wa.gov, Washington relay service 711, by March 1, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Ecology is proposing a comprehensive amendment of the solid waste handling standards in chapter 173-350 WAC. Changes proposed to WAC 173-350-220, 173-350-225, and 173-350-250 are intended only for the purposes of clarification and consistency with other sections of the rule.

Experience implementing the rule and input from stakeholders identified many areas in need of improvement. Issues previously identified as priorities (preproposal statement of inquiry - CR-101) included updating definitions, clarifying criteria for inert waste classification and when earthen material/soil is a solid waste, as well as streamlining recordkeeping and reporting requirements. In the CR-101 for this rule making, ecology announced it would also address other issues that might result in substantive changes, as well as clarifications and corrections to language in the chapter not

expected to change the overall effect of the rule. This rule making will:

- Standardize language and construction to improve usability and consistency across the rule.
- Improve user ability to identify solid wastes apart from commodities, and support material recovery and recycling activities while protecting public health and the environment.
- Help users more easily distinguish inert wastes from other materials requiring a higher standard of management.
- Clarify applicability of the rule, operational requirements, and time frames for managing solid wastes in piles.
- Distinguish between clean and contaminated soils and dredged material, and clarify management requirements.
- Make other changes to the rule. See the proposed language for more details on all changes.

Reasons Supporting Proposal: See purpose of proposal and its anticipated effects above.

Statutory Authority for Adoption: Chapter 70.95 RCW, RCW 70.95.060, 70.95.215, 70.95.218, 70.95.260(6), 70.95.300, 70.95.305, 70.95.310, 70.95.440.

Statute Being Implemented: Chapter 70.95 RCW, Solid waste management—Reduction and recycling.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting: Kyle Dorsey, Lacey, 360-407-6559; Implementation and Enforcement: Laurie Davies, Lacey, 360-407-6103.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05-328. A preliminary cost-benefit analysis may be obtained by contacting Kyle Dorsey, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6559, TTY see "Assistance for persons with disabilities" above, email kyle.dorsey@ecy.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement (SBEIS)

Proposed amendments to chapter 173-350 WAC, Solid waste handling standards.

This SBEIS presents the:

- Compliance requirements of the proposed rule.
- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.

- Cost-mitigating action taken by ecology, if required.
- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected net impact on jobs statewide.

A small business is defined by the Regulatory Fairness Act (RFA) (chapter 19.85 RCW) as having fifty or fewer employees. Estimated costs are determined as compared to the existing regulatory environment, the regulations in the absence of the rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for nonprofit or government agencies.

The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

This information is excerpted from ecology's complete set of regulatory analyses of the proposed rule. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the regulatory analyses (Ecology publication no. XX-XX-XXX, January 2018).

COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES:

Baseline: The baseline for our analyses generally consists of existing rules and laws, and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without the proposed rule amendments.

For this proposed rule making, the baseline includes:

- The existing rule, chapter 173-350 WAC, Solid waste handling standards.
- The authorizing statute, chapter 70.95 RCW, Solid waste management—Recycling and reduction.
- Related laws and rules, including but not limited to:
 - Chapter 173-226 WAC, Waste discharge general permit program.
 - Chapter 173-340 WAC, Model Toxics Control Act—Cleanup.

Proposed rule amendments: The proposed rule amendments that differ from the baseline and are not *specifically* dictated in the authorizing statute or elsewhere in law or rule include:

Applicability

Proposed:

- Adding a new exclusion for management of soils within a cleanup site.
- Adding a new exclusion for managing dead livestock.
- Adding a new exclusion for managing nonlivestock animal mortalities.
- Adding a new exclusion for reused engineered soil.
- Adding a new exclusion for reuse.
- Adding a new exclusion [for] organic materials used as animal feed.
- Adding an exclusion for land application of farm bedding and on-farm vegetative waste.

Expected impact: While these changes would normally allow more facilities to avoid the costs of compliance with the proposed rule or other potentially overlapping rules, these changes are intended to avoid regulatory overlap, the applicability of the proposed exclusions has not been enforced. We therefore expect a benefit arising from clarity in the applicability of the proposed rule, but without additional benefits of avoided expenditure.

Determination of solid waste

Proposed:

- Establishes criteria to determine whether a material is a solid waste.

The proposed rule establishes a set of tests that determine whether a material is a solid waste, except as defined in other sections of the rule.

Expected impact: The proposed rule will make it much easier for stakeholders and local health authorities to determine whether a material is a solid waste. The new section on determination of solid waste also results in the ability to recognize when materials, such as clean, baled cardboard have been processed to a point that handling is not considered solid waste management. This addresses an important concern in the recycling community that their efforts should be rewarded with the recognition that they yield products, not wastes. Facilities that are conditionally exempt under the baseline but more clearly determined not to be a solid waste under the proposed rule could avoid the costs of notification and reporting.

Definitions of solid waste

Proposed:

- Redefining clean and contaminated soils and dredged materials.
- Adding a definition for reuse.
- Adding a definition of commingled recyclables.
- Changing the definition of recycling.

Expected impact: The proposed rule amendments would potentially result in increased disposal costs as well as some increased permitting costs at facilities that are not currently permitted. They would also improve clarity as to who is regulated by the rule, and determine that facilities accepting only commodities or other recycled products are no longer solid waste handlers allowing them to avoid permitting or conditional exemption costs.

Beneficial use permit exemptions

Proposed:

- Modifying the definition of beneficial use to explicitly exclude the use of solid waste solely as fill and also adding the soil amendment component of the beneficial use permit exemption and land application sections.
- Changing requirements for storage prior to beneficial use to allow for other approved storage methods.

Expected impact: The proposed rule is likely to result in greater flexibility in storage methods prior to beneficial use.

Recycling and material recovery facilities

Proposed:

- Incorporating changes made in definitions and combining the standards for recycling and material recovery facilities under one section.

Expected impact: The expected impacts of proposed amendments to this section are discussed in the corresponding sections with which they align: Definitions and regulation of material recovery facilities. Making all sections of the rule consistent in definitions, structure, and requirements would provide the benefit of clarity to the regulated community as to whether they are regulated and what compliance requirements are.

While facilities accepting commingled recyclables would no longer be exempt, most are already permitted since they exceed the five percent contamination threshold. Facilities might also choose to no longer accept commingled recyclables, if the resulting overall cost is lower.

Land application

Proposed:

- Expanding sampling requirements by requiring a third sample at three-foot depth at each sampling location.

Expected impact: New permittees using land application would need to analyze one additional sample at each sampling location, during permit application, resulting in increased compliance costs as well as providing the benefit of more accurate information on soil nutrients at depths reached by plant roots.

Transfer stations and drop box facilities

Proposed:

- Moving the standards for material recovery facilities to the recycling section and aligning the requirements of the two standards.
- Renaming the intermediate solid waste handling facilities section transfer stations and drop box facilities to cover the remaining standards in the section.

Expected impact: Regulating material recovery facilities and recyclers in the same manner and putting them in a separate section from disposal facilities like transfer stations and drop boxes would improve regulatory clarity and equitability.

Piles used for storage or treatment

Proposed:

- Changing language so that the rule will apply to facilities that have ongoing pile storage, even if piles are removed within a certain time frame, but restarted.
- Clarifying the section is applicable to outdoor piles, not indoor piles.
- Adding or changing conditional exemption requirements.
- Changing conditional exemptions for brick, cured concrete, and asphalt.

Expected impact: The proposed rule would likely result in some additional pile facilities providing notification and

annual reports. The corresponding benefits would be proper management, improved information on exempt piles, reduced regulatory overlap with other permits and/or regulations, improved planning, and comprehensive records.

Surface impoundments and tanks

Proposed:

- Requiring minimum two year leak or tightness testing for pipes.
- Requiring access control to have artificial barriers and lockable gates.

Expected impact: The proposed rule would likely create costs for facilities needing to test pipes for leaks, remedy leaks, and document these activities. While the proposed specification of artificial barriers and lockable gates would be a change from the existing broad requirement, existing requirements at facilities that must also comply with requirements for limited purpose and municipal waste landfills likely result in existing compliance with the proposed specification.

Waste tire storage

Proposed:

- Changing applicability to include enclosed buildings.
- Changing applicability to include waste tires stored in containers not used for transport, whereas the existing rule could be interpreted to exclude waste tires stored in transportable containers regardless of whether they are actively used to transport tires.
- Updating design standards of waste tire storage facilities to reflect criteria stated in the International Fire Code. Previously, criteria from the Universal Fire Code was used to model the design standards of storage facilities. Some local jurisdictions still use Universal Fire Code, and the proposed rule allows for flexibility.

Expected impact: Applicability changes in the proposed rule would likely result in increased costs to account for, manage, and financially assure long-term management of waste tires stored in enclosed buildings and containers that are not actively used for transport. The update in design standards to reflect the current International Fire Code may lead to some additional associated costs, however, the updated design standards has built in flexibility for local jurisdictions that still use the Universal Fire Code.

The proposed amendments would likely result in improved management of indoor and container-stored tires, improving environmental protection, as well as reducing risks to staff, the public, and first responders in the event of a tire fire.

Waste tire transportation

Proposed:

- Separating transportation of waste tires from waste tire storage, WAC 173-350-350.

Expected impact: Moving requirements for waste tire transportation does not impact behavior, but may provide a benefit of clarity to transporters of waste tires in how they are regulated.

Moderate risk waste handling**Proposed:**

- Adding a new exemption for pharmaceutical collection.
- Changing requirements for conditional exemptions for limited moderate risk waste facilities and product take-back centers, including closed containers, labeling, and public access control, as well as maintaining containers in good condition, allowing inspections, and requiring labels on containers, respectively.
- Clarifying requirements for impervious surfaces, specifying that floors must only be impervious when the floor itself serves as secondary containment requirements for impervious surfaces, specifying that floors must only be impervious when the floor itself serves as the containment.
- Requiring that trained staff be present when receiving moderate risk waste.

Expected impact: The proposed rule amendments are likely to result in increased costs to meet conditional exemptions at limited moderate risk waste facilities, collection/mobile facilities, and product takeback centers, for training staff, and updating operating plans. They are also likely to result in pharmaceutical collection programs no longer needing a solid waste permit, improved safety for employees and first responders, and environmental safety. More options have been given for facilities to meet the secondary containment requirements, which could result in cost savings for facilities.

Limited purpose landfills**Proposed:**

- Changing the time frame for postclosure to whenever the site is determined to be stabilized.
- Requiring environmental covenants.

Expected impact: The proposed rule amendments may result in either longer or shorter postclosure periods, depending on individual landfill attributes. Staff expertise indicates that most will be shorter. The proposed rule amendments would require facilities to perform modeling and analysis to determine financial assurance time frames.

Requiring environmental covenants will likely result in additional cost to create them, as well as long-run environmental protection and potential reduction of liability and land-use problems.

Inert waste landfills**Proposed:**

- Adding an additional conditional exemption for inert waste landfills with total capacity between two hundred fifty and two thousand cubic yards.

Expected impact: The proposed rule amendments are likely to reduce burden on smaller landfills, as well as reduce barriers to entry.

Groundwater**Proposed:**

- Electronically submitting groundwater data by April 1.
- Requiring additional sample analysis for five analytes.

Expected impact: The proposed rule amendments are likely to increase costs of switching to and using the electronic data submittal system, as well as analytical costs. They are also likely to improve efficiency in data submittal, receipt, and processing, as well as improving accuracy in determining whether groundwater standards have been exceeded.

Financial assurance**Proposed:**

- Using prevailing wages for financial assurance calculations.
- Adjusting financial assurance for postclosure to reflect changes in how postclosure time frames are determined.

Expected impact: The proposed rule amendments are likely to result in increased financial assurance requirements for some facilities, and reduced financial assurance requirements for other facilities. They would also provide more certainty that there would be sufficient funds for closure and to maintain postclosure requirements.

Permitting**Proposed:**

- Update the permit modification and variance sections to be more clear and relevant to current solid waste management practices.
- Add a solid waste permit transfer section for when facility ownership changes.
- Adopt language that is consistent with statutory changes pertaining to Washington state department of agriculture review of permit applications and permits under certain circumstances.

Expected impact: The proposed rule would improve consistency with statute and create a formal process for permit transfers. The explicit permit transfer process would potentially increase costs to new owners of facilities, depending on the facility type and subsequent plans for use, while creating a benefit of ensuring new owners are capable of meeting all permit requirements, financial assurance requirements where applicable, and ensure that solid wastes at an applicable facility continue to be appropriately managed.

Criteria for inert waste**Proposed:**

- Repealing entire section and reverting to only those wastes listed explicitly in the authorizing statute.

Expected impact: The proposed rule amendments would likely result in some, though likely small, impacts to wastes being taken to inert waste landfills rather than more expensive disposal. Impacts are likely small because inert waste landfills already largely determine which wastes can be disposed of based on the statutory authority to minimize liability.

Reorganization and clarifications with no impact to requirements

Proposed: Multiple changes to rule organization and wording are proposed in order to streamline the rule language

and improve clarity. They do not change requirements or applicability.

Expected impact: The proposed rule amendments are likely to improve ease of compliance with the rule, so that facilities are better aware of whether they are covered by the rule, whether they are required to obtain a permit or can obtain an exemption, and what is required of them if permitted or exempt.

COSTS OF COMPLIANCE: EQUIPMENT, SUPPLIES, LABOR, PROFESSIONAL SERVICES, ADMINISTRATIVE COSTS, OTHER

RECYCLING AND MATERIAL RECOVERY FACILITIES: While facilities accepting commingled recyclables would no longer be exempt from permitting under the proposed rule, most are already permitted. We identified ten facilities that would potentially be impacted by this proposed change. If these facilities did incur full permitting costs, actual permitting costs would rely heavily on facility type and attributes. For illustrative purposes, we assumed ten analytical components to permitting, and eight hours of engineer time to complete each component, resulting in approximate permitting costs of nearly \$10 thousand. This does not include the costs of fees, or compliance adjustments to facilities and business practices necessary to comply with a permit.

LAND APPLICATION: New permittees using land application would need to analyze one additional sample at each sampling location as part of the permit application, resulting in increased costs. We estimated costs based on one new permit per year, \$20 per additional analysis, and eight representative sample locations per facility. This resulted in total estimated costs of \$160 per year, with an equivalent twenty year present value of nearly \$3 thousand.

TRANSFER STATIONS AND DROP BOX FACILITIES: Impacts to material recovery facilities no longer regulated under the revised and renamed formerly "Intermediate solid waste handling facilities" section, are discussed under recycling and material recovery facilities above.

PILES USED FOR STORAGE OR TREATMENT: Proposed changes to conditional exemption requirements would result in approximately twenty-four exempt facilities incurring costs of keeping records, submitting notifications, and annual reporting. We estimated this cost based on one hour of time spent by an owner/operator, a \$48.92 hourly wage multiplied by a factor of 2.257 for overhead, and an inflation adjustment of 2.7 percent. This resulted in a cost estimate of approximately \$3 thousand per year, corresponding to a total twenty year present value cost of \$49 thousand.

Changes to exemptions for piles of brick, cured concrete, and asphalt with a water quality sand and gravel or construction stormwater general permit would result in increased exemptions that would incur the costs of notification and annual reporting, rather than the full cost of permitting when recycling these wastes. We estimated reporting cost based on one hour of owner/operator time at fifty-nine facilities, a \$48.92 hourly wage multiplied by a factor of 2.257 for overhead, and an inflation adjustment of 2.7 percent. This resulted in a cost estimate of approximately \$7 thousand per year (total across fifty-nine facilities), corresponding to a twenty year present value cost of \$122 thousand.

Facilities that also crush the material into a recycled aggregate product may already be reporting as required under

the baseline recycling standards, and would not incur any additional cost. Ninety-one regulated facilities reported in 2015, most or all of which produce recycled aggregate product. A total of one hundred fourteen facilities reported, including exempt pile facilities that are not required to report under the baseline. If up to half of facilities with piles of brick, cured concrete, or asphalt already report under the baseline, this total present value cost would drop to approximately \$61 thousand.

SURFACE IMPOUNDMENTS AND TANKS: We estimated the cost of leak or tightness testing at a facility with surface impoundments that does not discharge to sewers. This estimate was based [on] a facility incurring the costs of forty hours of licensed professional engineer time, a \$48.92 hourly wage multiplied by a factor of 2.257 for overhead, and an inflation adjustment of 2.7 percent. This resulted in a cost estimate of approximately \$12 thousand per facility per testing year (testing is semiannual), corresponding to a twenty year present value cost of approximately \$110 thousand.

WASTE TIRE STORAGE: We estimated the costs of permitting including financial assurance statewide to appropriately dispose of all waste tires, because there is currently insufficient data on facilities that are not covered by the baseline rule. This illustrative extreme high-end estimate was based on the assumptions of one waste tire per person per year, approximately seven million state population, one hundred tires per ton, and an average disposal cost of \$250 per ton. This would result in a total cost to dispose of all waste tires in the state of \$17.5 million per year. The proposed rule would not result in costs this high, as many waste tires are managed according to the requirements of the baseline. Expanding the proposed rule's coverage to waste tires stored in enclosed buildings and containers that remain on site would result in changes for some unknown subset of the total waste tires in the state.

If local jurisdictions currently require International Fire Code compliance, the proposed rule does not result in additional costs. If facilities are regulated according to the outdated Universal Fire Code, they might incur additional compliance costs upon implementation of the proposed rule. Effectively, this may mean they could store fewer waste tires per unit of space, resulting in a need to manage tires off site more rapidly and incur disposal costs sooner than they would under the baseline. However, since the design standards in WAC 173-350-350 have built-in flexibility that allow for the local jurisdictions to use the fire code of their choosing, there may be little to no change.

MODERATE RISK WASTE (MRW) HANDLING: The proposed rule amendments are likely to result in increased costs to meet conditional exemptions at limited MRW facilities and product takeback centers. Examples of conditional exemptions to meet include using closed containers, labeling, and access control:

- We assumed using closed containers would require one in ten facilities (approximately thirty) to minimally adjust their procedures to keep containers closed.
- We assumed that one percent of the approximately two hundred fifty-six limited MRW facilities, would need to purchase signage, using up to twelve signs at \$20 each. This corresponds to a one-time cost of up to \$800.

- Finally, we assumed one in ten facilities (approximately thirty) would need to install additional fencing as applicable, as well as use padlocks.

The requirement to have trained workers present during acceptance of moderate risk waste would likely result in minimal temporary reassignment of workers, during intake periods. We assumed that twelve identified moderate risk waste facilities would need to have one employee undergo hazardous waste worker training. This training costs about \$300, resulting in a one-time cost of \$3,600.

LIMITED PURPOSE LANDFILLS: We estimated the cost of evaluating postclosure timelines, application preparation, and updating postclosure plans for twenty-three limited purpose landfills. We estimated this cost based on a high-end estimate of one hundred twenty hours of engineer time, a \$48.92 hourly wage multiplied by a factor of 2.257 for overhead, and an inflation adjustment of 2.7 percent. This resulted in a one-time cost estimate of approximately \$313 thousand.

Similarly, we estimated the cost of developing environmental covenants at twenty-three limited purpose landfills, based on eight hours of legal consultant time, a \$53.45 hourly wage multiplied by a factor of 2.257 for overhead, and an inflation adjustment of 2.7 percent. This resulted in a one-time cost estimate of approximately \$23 thousand.

GROUNDWATER: We estimated costs for twenty-three limited purpose landfills to set up electronic data submission accounts (if they do not currently have them; this is a high-end estimate), based on 6.25 hours at an hourly wage including overhead of \$150. This total one-time cost is approximately \$22 thousand.

While electronic data submission itself bears a cost, the incremental cost of providing data to ecology as compared to the baseline of submitting paper or email documents is likely a cost savings, after initial account setup (if applicable).

For the proposed additional analysis for five constituents per well, we estimated costs for the number of wells at twenty-three landfills based on each landfill's number of sampling events per year (maximum four), and \$12 per metals analysis. This total cost is approximately \$27 thousand per year, corresponding to a twenty year present value of \$491 thousand.

FINANCIAL ASSURANCE: Median financial assurance requirements in available data were approximately \$1 million. Some facilities, however, meet financial assurance using a financial test that determines the owner company has sufficient funds to meet requirements. These facilities are not required to acquire additional insurance or bonds. It is not clear from available information whether facilities tend to overestimate or underestimate wages as compared to the prevailing wage. We therefore could not determine whether or how much potential financial assurance requirements would increase or decrease.

The cost of modeling the length of postclosure care is included above under limited purpose landfills.

PERMITTING: The proposed rule amendment may increase the cost of transferring permits when a facility is sold to a new owner. Local health department processing costs could be passed through to a new owner. The process requires that the new owner demonstrate the ability [to] properly run the facility and meet facility compliance require-

ments. The occurrences of permit transfer are infrequent and some local jurisdictions that issue solid waste permits may already have fees built into the local solid waste permitting fee ordinances. In addition, under the baseline, facilities are required to have appropriate permits or other compliance behaviors, regardless of whether they are new facility owners, so this cost is potentially one that should already be incurred under the baseline, even if it is not consistently implemented.

CRITERIA FOR INERT WASTE: The proposed rule amendments would likely result in some, though likely small, impacts to wastes being taken to inert waste landfills rather than more expensive disposal. Impacts are likely small because inert waste landfills already largely determine which wastes can be disposed of based on the statutory authority to minimize liability.

COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES: The median affected small business likely to be covered by the proposed rule amendments employs an average of approximately nine people. The median largest ten percent of affected businesses employ an average of approximately seventy-six people. All quantitative cost estimates in this analysis are point estimates (not differentiated by size or range), and dividing any number by nine employees versus seventy-six employees will yield a disproportionate compliance cost impact per employee.

We conclude that the proposed rule amendments are likely to have disproportionate impacts on small businesses, based on the possible quantified cost estimates, and therefore ecology must include elements in the proposed rule amendments to mitigate this disproportion, as far as is legal and feasible.

CONSIDERATION OF LOST SALES OR REVENUE: Businesses that would incur costs could experience reduced sales or revenues if the fee changes would significantly affect the prices of the goods they sell. The degree to which this could happen is strongly related to each business's production and pricing model (whether additional lump-sum costs significantly affect marginal costs), as well as the specific attributes of the markets in which they sell goods, including the degree of influence of each firm on market prices, as well as the relative responsiveness of market demand to price changes.

MITIGATION OF DISPROPORTIONATE IMPACT: RFA (RCW 19.85.030(2)) states that:

Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- Reducing, modifying, or eliminating substantive regulatory requirements;
- Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- Reducing the frequency of inspections;
- Delaying compliance timetables;
- Reducing or modifying fine schedules for noncompliance; or

(f) Any other mitigation techniques including those suggested by small businesses or small business advocates.

Ecology considered all of the above options, and included the following legal and feasible elements in the proposed rule amendments that reduce costs. In addition, ecology considered the alternative rule contents discussed in Chapter 6 of the regulatory analyses document, and excluded those elements that would have imposed excess compliance burden on businesses.

- Adding exclusions, exceptions, and clarifications to prevent overlapping permitting and regulatory requirements.
- Simplifying determination of solid wastes.
- Expanding permit exemptions to pharmaceutical take-back.
- Expanding the definition of recycling.
- Expanding regulatory flexibility regarding impervious surfaces.
- Expanding regulatory flexibility regarding protecting wastes from weather.
- Making postclosure time frames dependent on site attributes rather than a rigid number of years.
- Adding a second exemption tier for inert waste landfills.

SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION: Ecology involved small businesses and local government (or representative organizations) in its development of the proposed rule amendments, as part of its outreach and rule development process. This included:

- Email listserv "ECY-SW-Handling-Standards," with seven hundred ninety-eight current members, including industry groups, cities, and counties.
- Rule development workgroup, including representatives from: Waste management, Washington utilities and transportation commission, jurisdictional health authorities, Washington Refuse and Recycling Association, Washington Aggregates & Concrete Association, waste connections, City of Spokane, Snohomish County, zero waste Washington, jurisdictional health authorities, Washington state department of transportation, Washington State Recycling Association.
- Additional attendance at meetings by: Washington Refuse and Recycling Association, Washington utilities and transportation commission, Cedar Grove, Bart Kale & Associates/Nucor Steel, ISRI, waste connections, Washington state department of transportation, Snohomish County, Snohomish County, King County Solid Waste, Cedar Grove.
- Workgroup meetings: January 5, 2016; August 11, 2015; June 16, 2015; February 18, 2015; February 3, 2015; January 20, 2015; January 6, 2015, conference call; December 16, 2014; December 2, 2014, conference call; November 18, 2014; November 4, 2014, conference call; October 17, 2014; October 7, 2014, conference call; September 16, 2014; August 22, 2014; July 9, 2014.
- Public workshops: July 21, 2016, Lacey; July 26, 2016, Ellensburg; July 27, 2016, Spokane.

NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE:

- 111X Crop Production
- 112X Animal Production and Aquaculture
- 2123 Nonmetallic Mineral Mining and Quarrying
- 2213 Water, Sewage and Other Systems
- 3253 Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing
- 4239 Miscellaneous Durable Goods Merchant Wholesalers
- 4413 Automotive Parts, Accessories, and Tire Stores
- 4441 Building Material and Supplies Dealers
- 4442 Lawn and Garden Equipment and Supplies Stores
- 4451 Grocery Stores
- 4461 Health and Personal Care Stores
- 4471 Gasoline Stations (also 4451 grocery stores)
- 4533 Used Merchandise Stores
- 5621 Waste Collection
- 5622 Waste Treatment and Disposal
- 5629 Remediation and Other Waste Management Services

IMPACT ON JOBS: Ecology used the Washington state office of financial management's 2007 Washington input-output model to estimate the impact of the proposed rule on jobs in the state. The model accounts for interindustry impacts and spending multipliers of earned income and changes in output.

The proposed rule amendments will result in transfers of money within and between industries. Transfers would primarily occur to or from engineering professions, as well as to financial or insurance sector providers of financial assurance. Jobs impact calculations were based on cost increases and reductions that could be fully quantified across an industry or industries for the proposed rule amendments.

In the first year, when one-time and annual costs increases and reductions would be incurred, seven full-time employee (FTE) positions (FTEs; a full time position for one year) could be lost, not including transfers of funds to and from other industries.

In subsequent years, when only annual cost increases and reductions would be incurred, one FTE could be lost in perpetuity, not including transfers of funds to and from other industries.

These prospective changes in overall employment in the state are the sum of multiple small impacts across all industries in the state.

A copy of the statement may be obtained by contacting Kyle Dorsey, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-6559, TTY see "Assistance for persons with disabilities" above, email kyle.dorsey@ecy.wa.gov.

January 22, 2018

Polly Zehm
Deputy Director

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-010 Purpose. This chapter is adopted under the authority of chapter 70.95 RCW, Solid waste management—Reduction and recycling, to protect public health, to prevent land, air, and water pollution, and conserve the state's natural, economic, and energy resources by:

(1) Setting minimum functional performance standards for the proper handling and disposal of solid waste originating from residences, commercial, agricultural and industrial operations and other sources;

(2) Identifying those functions necessary to assure effective solid waste handling programs at both the state and local level;

(3) Following the priorities for the management of solid waste as set by the legislature in chapter 70.95 RCW, Solid waste management—Reduction and recycling(());

(4) Describing the responsibility of persons, municipalities, regional agencies, state and local government related to solid waste;

(5) Requiring solid waste handling facilities to be located, designed, constructed, operated and closed in accordance with this chapter;

(6) Promoting regulatory consistency by establishing statewide minimum standards for solid waste handling; and

(7) Encouraging the development and operation of waste recycling facilities and activities needed to accomplish the management priority of waste recycling.

AMENDATORY SECTION (Amending WSR 13-08-016, filed 3/25/13, effective 4/25/13)

WAC 173-350-020 Applicability. (1) This chapter applies to facilities and activities that manage solid wastes as that term is defined in WAC 173-350-100. Facilities handling solid waste must comply with the standards of all applicable sections of this chapter.

(2) This chapter does not apply to the following:

((1)) (a) Overburden from mining operations intended for return to the mine;

((2)) (b) Wood waste used for ornamental, animal bedding, mulch and plant bedding, or road building purposes;

((3)) (c) Wood waste directly resulting from the harvesting of timber left at the point of generation and ((subject to)) regulated under chapter 76.09 RCW, Forest practices;

((4)) (d) Land application of livestock manure((s)) and bedding, crop residue((s)), and on-farm vegetative waste at agronomic rates;

((5)) Agricultural composting when all agricultural wastes are generated, processed, and applied on farm at agronomic rates in accordance with accepted agricultural practices. This categorical exemption does not apply to producers subject to RCW 70.95.306, composting of bovine and equine carcasses;

((6)) (e) Mushroom substrate production when materials that are not solid waste (such as processed chicken manure) are used in the production;

((7)) Home composting as defined in WAC 173-350-100;

((8))) (f) Single-family residences and single-family farms whose year round occupants engage in solid waste disposal regulated under WAC 173-351-700(4);

((9)) (g) Clean soil((s)) and clean dredged material as defined in WAC 173-350-100;

((10)) Dredged material as defined in 40 C.F.R. 232.2 that is subject to:

(a) The requirements of a permit issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(b) The requirements of a permit issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(c) In the case of U.S. Army Corps of Engineers civil works projects, the administrative equivalent of the permits referred to in (a) and (b) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 C.F.R. 336.1, 336.2, and 337.6;

((11))) (h) The following activities when regulated under section 404 or 401 of the Clean Water Act (33 U.S.C. Sec. 1344 or 1341) or section 10 of the Rivers and Harbors Act (33 U.S.C. Sec. 403):

(i) Management of dredged material, as defined in 40 C.F.R. Sec. 232.2, prior to placement into surface water or onto land;

(ii) Placement of dredged material, as defined in 40 C.F.R. Sec. 232.2, into surface water or onto land where there will be runoff or return water to surface water.

(i) Biosolids that are managed under chapter 173-308 WAC, Biosolids management;

((12))) (j) Domestic septic taken to a sewage treatment plant permitted under chapter 90.48 RCW, Water pollution control;

((13))) (k) Liquid wastes, the discharge or potential discharge of which((;)) is regulated under federal, state or local water pollution permits;

((14))) (l) Domestic wastewater facilities and industrial wastewater facilities otherwise regulated by federal, state, or local water pollution permits;

((15))) (m) Dangerous wastes fully regulated under chapter 70.105 RCW, Hazardous waste management, and chapter 173-303 WAC, Dangerous waste regulations;

((16))) (n) Special incinerator ash regulated under chapter 173-306 WAC, Special incinerator ash management standards;

((17))) (o) PCB wastes regulated under 40 C.F.R. Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions, except for:

((a))) (i) PCB household waste; and

((b))) (ii) PCB bulk product wastes identified in 40 C.F.R. Part 761.62 (b)(1) that are disposed of in limited purpose landfills;

((18))) (p) Radioactive wastes, defined by chapter 246-220 WAC, Radiation protection—General provisions, and chapter 246-232 WAC, Radioactive protection—Licensing applicability;

((19)) (q) Landfilling of municipal solid waste regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills;

((20) Drop boxes used solely for collecting recyclable materials;

((21)) (r) Intermodal facilities as defined in WAC 173-350-100; ((and

((22)))

(s) Collection, transport, and sale of used goods and materials solely for the purpose of reuse as defined in WAC 173-350-100;

(t) Solid waste handling facilities that have engaged in closure and closed before the effective date of this chapter;

(u) Commercial fertilizers registered with the Washington state department of agriculture and managed in accordance with the provisions of chapter 15.54 RCW, Fertilizers, minerals, and limes, and rules adopted thereunder;

(v) Manufactured topsoil, as defined in WAC 173-350-100, composed only of clean soil and clean dredged material, composted materials, wood waste, or other commercial products (e.g., bioretention soil media, water retaining crystals, or registered commercial fertilizers or liming agents);

(w) Engineered soil, as defined in WAC 173-350-100, when reused, as defined in WAC 173-350-100, in another construction project for the same engineering properties;

(x) Management of soil or dredged material within a contaminated site as part of a removal or remedial action under chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act, chapter 90.48 RCW, Water pollution control, or 42 U.S.C. Sec. 9601 et seq., Comprehensive Environmental Response, Compensation, and Liability Act. However, the department may determine that the requirements of this chapter are relevant and appropriate to such a removal or remedial action under WAC 173-340-710;

(y) Contaminated soil, as defined in WAC 173-350-100, placed at or near the location of generation within a project site;

(z) Steel slag that is a primary product of production in the electric arc steel-making process, produced to specification, managed as an item of commercial value, and placed in commerce for general public consumption, if the steel slag material is not abandoned, discarded, or placed in the solid waste stream;

(aa) Organic materials, as defined in WAC 173-350-100, used for animal feed or to create animal feed;

(bb) Management of routine livestock mortalities when managed in compliance with WAC 16-25-025 (1), (4), (6), or (8), disposal of dead livestock; and

(cc) Management of routine nonlivestock animal mortalities by burial, incineration in a unit with a design capacity of less than twelve tons per day, natural decomposition, or rendering, when managed in compliance with WAC 246-203-121, general sanitation.

(dd) Materials used in research and development activities intended to evaluate, develop, or demonstrate potential new or improved beneficial use, reuse, or recycling methods or technologies for solid wastes conducted by qualified persons in controlled laboratory, bench scale, or pilot study conditions at the facility at which the materials are generated, at another facility owned or operated by the generator, at an

institution of higher education as defined in RCW 28B.10.-016, at a higher education institution as defined in RCW 28B.07.020, or at a public or private laboratory or other facility contracted by the waste generator or institution to conduct such activities. These activities include the research and development operations, the separation, collection, transport, and transfer of such materials in support of those operations. Solid wastes handled in connection with such activities shall be reasonably limited to quantities needed to conduct the research and development project(s), and any excess or residual of such materials remaining after such activities and any solid waste generated by such activities shall be handled in accordance with this chapter or chapter 173-303 WAC, Dangerous waste regulations, as applicable.

NEW SECTION

WAC 173-350-021 Determination of solid waste.

(1) Determination of solid waste - Applicability. This section must be applied when determining whether a material is a solid waste as defined in WAC 173-350-100. Some waste materials already have criteria for use, or standards to no longer be considered solid waste, in other sections of this rule. This section may not be applied to the following materials regulated under other sections of this chapter:

(a) Contaminated soil and contaminated dredged materials defined in WAC 173-350-100;

(b) Composted materials regulated under WAC 173-350-220; and

(c) Digestate regulated under WAC 173-350-250.

(2) A material is a solid waste if it meets any of the criteria in (a) through (g) of this subsection:

(a) The material has been discarded, abandoned, or disposed of;

(b) The material has been permanently placed in or on land for the purpose of disposal;

(c) The material is a by-product generated from the manufacturing or processing of a product, and is placed on the land for beneficial use;

(d) The material has been collected through residential or commercial solid waste or recyclable material collection;

(e) The material has been received at a solid waste handling facility;

(f) The generator has paid for or will need to pay for removal or processing of the material for solid waste recycling, storage, incineration, or landfilling; or

(g) The material has been stockpiled for recycling, reuse, or use after recycling, but no market is available and stockpiles provide vector attraction or harborage, or release pollutants into the environment in violation of other human health or environmental rules and regulations.

(3) A material that met any of the criteria in subsection (2) of this section is no longer a solid waste if it meets all of the criteria in (a) through (e) of this subsection:

(a) The material is no longer discarded or abandoned;

(b) The material has been recycled, or is ready for reuse, as defined in WAC 173-350-100;

(c) The material has positive market value, as indicated by established markets for the material. Paying a person to remove or process the material for recycling, disposal, or

incineration is not positive market value, nor is paying a discounted amount for removal or processing;

(d) The material is stored and managed to preserve its value, and is stored in a manner that presents little or no risk to human health and the environment; and

(e) The material does not contain harmful chemical, physical, biological, or radiological substances that will pose a threat to human health or the environment for its intended or likely manner of use.

(4) If a material does not meet all of the criteria of subsection (3) of this section, the person in possession of the material is still considered to be handling solid waste and is required to obtain a permit from the jurisdictional health department, or meet the requirements of a conditional permit exemption under the applicable section(s) of this chapter, or manage the material in accordance with the provisions of WAC 173-350-200 Beneficial use permit exemptions. In an action to enforce the requirements of this chapter, the generator or person in possession of the material must demonstrate that the material is no longer a solid waste.

(5) Nothing in this chapter shall impact the rights of a commercial recycler, nonprofit, or commercial generator under RCW 70.95.903, 81.77.140, 36.58.160, and 35.21.158.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-025 Owner responsibilities for solid waste. The owner, operator, or occupant of any premise, business establishment, or industry ((shall)) must be responsible for the satisfactory and legal arrangement for the solid waste handling of all solid waste generated or accumulated by them on the property.

AMENDATORY SECTION (Amending WSR 13-08-016, filed 3/25/13, effective 4/25/13)

WAC 173-350-030 Effective dates. (1) **Effective dates - Facilities with new solid waste handling units.** ((These)) The standards in this chapter apply to ((all facilities, except existing facilities,)) a facility with new solid waste handling units, when updated or new sections in this chapter become effective.

(2) **Effective dates - Existing facilities with a solid waste handling permit.**

(a) The owner or operator of an existing ((facilities)) facility must:

(i) Meet all applicable operating, environmental monitoring, closure and post-closure planning, and financial assurance requirements ((of this chapter by June 30, 2014)) within eighteen months of the effective date associated with each solid waste handling unit at a facility; and

(ii) Meet all applicable performance and design requirements, other than location or setback requirements, ((by December 31, 2014)) within twenty-four months of the effective date associated with each solid waste handling unit at a facility.

(b) ((These standards apply to all new solid waste handling units at existing facilities upon the effective date of this chapter.

((e) If, as determined by the jurisdictional health department, significant changes to the operation, design, capacity, performance, or monitoring of)) If changes to a facility are needed to meet updated or new sections of this chapter, the owner or operator of existing facilities must ((initiate the)) submit a request for permit modification ((process)) as outlined in WAC 173-350-710((4)) by December 31, 2013. If a permit modification is necessary, every application for a permit modification must describe the date and methods for altering an existing facility to meet (a)(i) and (ii) of this subsection.

((d) The jurisdictional health department must determine if a new permit application is required based on the extent of the changes needed to bring the facility into compliance.

((e) All facilities must close)) within twelve months of the effective date associated with each solid waste handling unit at a facility. The request must demonstrate that an owner or operator will meet updated or new sections by applicable effective dates.

((c) An owner or operator of an existing facility that cannot meet the requirements in updated or new sections of this chapter associated with solid waste handling units at the facility must close those units in compliance with applicable requirements of this chapter.

(3) Effective dates - Existing facilities meeting terms and conditions for permit exemption, or existing facilities previously not regulated under this chapter.

((a) The owner or operator of an existing facility must:

((i) For facilities eligible for permit exemption, meet any revised or new terms and conditions for a permit exemption within twelve months of the effective date associated with each solid waste handling unit at a facility; and

((ii) For facilities that must obtain a permit to meet requirements in updated or new sections of this chapter, submit a complete permit application as outlined in WAC 173-350-710 within twelve months of the effective date associated with each solid waste handling unit at a facility.

((b) An owner or operator of an existing facility that cannot meet the requirements in updated or new sections of this chapter associated with solid waste handling units at the facility by their effective dates must close those units in compliance with applicable requirements of this chapter.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-040 Performance standards. The owner or operator of ((all)) any solid waste ((facilities)) facility subject to this chapter ((shall)) must:

(1) Design, construct, operate, ((and)) close ((all facilities)) and provide post-closure care as applicable, at any solid waste facility in a manner that does not pose a threat to human health or the environment;

(2) ((Comply with chapter 90.48 RCW, Water pollution control and implementing regulations, including chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington;

(3) Conform to)) Not be in conflict with the approved local comprehensive solid waste management plan prepared in accordance with chapter 70.95 RCW, Solid waste manage-

ment—Reduction and recycling, and/or the local hazardous waste management plan prepared in accordance with chapter 70.105 RCW, Hazardous waste management((~~;~~));

((4) Not cause any violation of emission standards or ambient air quality standards at the property boundary of any facility and comply with chapter 70.94 RCW, Washington Clean Air Act)); and

((5)) (3) Comply with all other applicable local, state, and federal laws and regulations.

AMENDATORY SECTION (Amending WSR 13-08-016, filed 3/25/13, effective 4/25/13)

WAC 173-350-100 Definitions. When used in this chapter, the following terms have the meanings given below.

"Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being, are proposed to be, or have been conducted. Setbacks must not be considered part of the active area of a facility.

"Aerobic decomposition" means decomposition of organic materials primarily by aerobic microbes under controlled conditions.

"Agricultural composting" means composting of agricultural waste as an integral component of a system designed to improve soil health and recycle agricultural wastes. Agricultural composting is conducted on lands used for farming.

"Agricultural wastes" means wastes ((on)) from farms resulting from the raising or growing of plants and animals including, but not limited to, crop residue, livestock manure ((from herbivores and nonherbivores)), animal bedding, and carcasses of dead animals.

"Agronomic rates" means the application rate ((dry weight basis)) that will provide the amount of nitrogen or other critical nutrient required for ((optimum)) optimal growth of vegetation, and that will not result in the violation of applicable standards or requirements for the protection of ground or surface water as established under chapter 90.48 RCW, Water pollution control, and related rules including chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington, and chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington.

"Air quality standard" means a standard set for maximum allowable contamination in ambient air as ((set forth)) authorized in chapter ((173-400 WAC, General regulations for air pollution sources)) 70.94 RCW, Washington Clean Air Act.

"All weather surface" means a road surface over which emergency vehicles and typical passenger vehicles can pass in all types of weather.

"Anaerobic digester" means a vessel that processes organic material into biogas and digestate through microbial decomposition under anaerobic (low oxygen) conditions.

"Asphaltic materials" means material produced from a mixture of petroleum asphalt and mineral aggregate and used for the construction of roads, sidewalks and similar purposes. Roofing materials containing asphalt are not considered to be asphaltic materials.

"Below ground tank" means a device meeting the definition of "tank" in this chapter where a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface of the tank that is in the ground.

"Beneficial use" means the use of solid waste as an ((ingredient in a manufacturing process, or as an)) effective substitute for natural or commercial products, or as a soil amendment, in a manner that does not pose a threat to human health or the environment((-)) when approved in accordance with section WAC 173-350-200 or 173-350-230 of this chapter. Use of solid waste as fill, or avoidance of processing or disposal cost alone, does not constitute beneficial use.

"Biofilter" means a bed or layer of material that supports beneficial microorganisms, typically a mixture of compost and wood chips, designed to filter and treat air emissions. A biofilter adsorbs and then biologically degrades odorous compounds.

"Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, that can be beneficially recycled and meets all applicable requirements under chapter 173-308 WAC, Biosolids management. Biosolids includes a material derived from biosolids and septic tank sludge, also known as septage, that can be beneficially recycled and meets all applicable requirements under chapter 173-308 WAC, Biosolids management.

"Buffer" means a permanently vegetated strip adjacent to ((an)) land application area, the purpose of which is to filter runoff or overspray from the application area and protect an adjacent area.

"Bulking agent" means an ingredient used to improve structure and porosity, or to lower moisture content, primarily in composting. Bulking agents improve convective air flow and reduce settling and compaction. Bulking agents may include, but are not limited to, wood waste, straw, and other high-carbon materials.

"By-product" means a material that is not one of the primary products of a manufacturing production process. A by-product is not produced for the general public's use.

"Cab card((s))" means a license carried in a vehicle that authorizes that ((vehicle)) vehicle's driver to legally pick up waste tires and haul to a permitted, licensed facility or an exempt facility for deposit.

((**"Capacity"** means the maximum amount of material that can be contained on site at any one time. Capacity is identified by the conditions of exemption, the permit, or the plan of operations as approved by the jurisdictional health department or the department. All material includes, but is not limited to, incoming waste, feedstocks, bulking agents, stockpiled wastes, active composting, curing piles, composted materials, and sorted recyclable materials on site.))

"Captive insurance companies" means companies that are wholly owned subsidiaries controlled by the parent company and established to insure the parent company or its other subsidiaries.

"Cementitious material" means a material other than cured concrete containing Portland cement, fly ash, cement kiln dust, bottom ash, or other cement-like materials, used to add rigidity to soils during construction projects such as tem-

porary retaining walls and shaft construction, or generated from construction or road maintenance projects. Cementitious materials include, but are not limited to, jet grout, controlled low strength material (CLSM), flowable fill, low density fill, k-crete, shotcrete, concrete washout, concrete road grindings, and dewatered drilling slurries containing cementitious materials.

"Channel migration zone" means the lateral extent of likely movement of a stream or river channel along a stream reach.

"Clean dredged material" means dredged material that does not contain contaminants from a release. It also includes dredged material that contains one or more contaminants from a release and when moved from one location to another for placement on or into the ground:

(a) Does not contain contaminants at concentrations that exceed a cleanup level under chapter 173-340 WAC, Model Toxics Control Act—Cleanup, that would be established for the location where dredged material is placed; or

(b) Contains contaminants that affect pH, but pH of the dredged material is between 4.5 and 9.5 or within natural background pH limits that exist at the location where dredged material is placed.

"Clean soil(s and clean dredged material)" means soil((s and dredged material which are not dangerous wastes, contaminated soils, or contaminated dredged material as defined in this section)) that does not contain contaminants from a release. It also includes soil that contains one or more contaminants from a release and when moved from one location to another for placement on or into the ground:

(a) Does not contain contaminants at concentrations that exceed a cleanup level under chapter 173-340 WAC, Model Toxics Control Act—Cleanup, that would be established for the location where soil is placed; or

(b) Contains contaminants that affect pH, but pH of the soil is between 4.5 and 9.5 or within natural background pH limits that exist at the location where soil is placed.

"Closure" means those actions taken by the owner or operator of a solid waste handling facility to cease disposal operations or other solid waste handling activities, to ensure that all ((such)) facilities are closed in conformance with applicable regulations at the time of ((such)) closure((s)), and to prepare the site for the post-closure period if applicable.

"Closure plan" means a written plan developed by an owner or operator of a facility detailing how a facility is to close at the end of its active life.

"Collection event" means a one-time or recurrent designation of a site and areas within that site used by an operator to collect MRW from the public and to store the MRW for less than forty-eight hours.

"Commingled recyclable materials" means a mixture of several types of recyclable materials in one load or container, such as aluminum cans, paper, plastic, and cardboard in one container, or wood, concrete, and metal in one load.

"Commodity" means a material that meets widely recognized standards and specifications, such as those from ASTM International or the Institute of Scrap Recycling Industries, Inc., (for example, commodity-grade scrap metal) that is mutually interchangeable with other materials meeting

the same specifications, and that has well-established markets.

"Composted material" means organic solid waste that has undergone biological degradation and transformation under controlled conditions designed to promote aerobic decomposition at a solid waste facility in compliance with the requirements of this chapter. Composting is a form of organic material recycling. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.

"Composting" means the biological degradation and transformation of organic solid waste under controlled conditions designed to promote aerobic decomposition. Natural decay of organic solid waste under uncontrolled conditions is not composting.

"Conditionally exempt small quantity generator (CESQG)" means a dangerous waste generator whose dangerous wastes are ((not subject to)) conditionally exempt from regulation under chapter 70.105 RCW, Hazardous waste management, solely because the waste is generated or accumulated in quantities below the threshold for regulation and meets the conditions prescribed in WAC 173-303-070 (8)(b).

"Conditionally exempt small quantity generator (CESQG) waste" means dangerous waste generated by a conditionally exempt small quantity generator.

"Container" means a portable device used for the collection, storage, and/or transportation of solid waste including, but not limited to, reusable containers, disposable containers, and detachable containers.

"Contaminant" means any chemical, physical, biological, or radiological substance that does not occur naturally in the environment or that occurs at concentrations greater than natural background levels.

"Contaminate" means the release of solid waste, leachate, or gases emitted by solid waste, ((such)) so that contaminants enter the environment at concentrations that pose a threat to human health or the environment, or cause a violation of any applicable environmental regulation.

"Contaminated dredged material" means dredged material ((resulting from the dredging of surface waters of the state where contaminants are present in the dredged material at concentrations not suitable for open water disposal and the dredged material is not dangerous waste and is not regulated by section 404 of the Federal Clean Water Act (P.L. 95-217))) containing one or more contaminants from a release and when moved from one location to another for placement on or into the ground:

(a) Contains contaminants at concentrations that exceed a cleanup level under chapter 173-340, Model Toxics Control Act—Cleanup, that would be established for the location where dredged material is placed; or

(b) Contains contaminants that affect pH, and pH of the dredged material is below 4.5 or above 9.5 or is not within natural background pH limits that exist at the location where dredged material is placed.

An example of a contaminated dredged material may include, but is not limited to, dredged material from surface waters containing contaminants from a release.

"Contaminated soil(s)" means soil((s—removed during the cleanup of a hazardous waste site, or a dangerous waste facility closure, corrective actions or other clean-up activities and which contain harmful substances but are not designated dangerous wastes)) containing one or more contaminants from a release and when moved from one location to another for placement on or into the ground;

(a) Contains contaminants at concentrations that exceed a cleanup level under chapter 173-340 WAC, Model Toxics Control Act—Cleanup, that would be established for the location where soil is placed; or

(b) Contains contaminants that affect pH, and pH of the soil is below 4.5 or above 9.5 or is not within natural background pH limits that exist at the location where soil is placed.

Examples of contaminated soil may include, but are not limited to, street waste, petroleum contaminated soil, engineered soil, and soil likely to have contaminants from industrial or historical activities.

"Controlled conditions" means the conditions in which facilities must be operated to meet the performance standards of WAC 173-350-040 and the applicable handling standards of this chapter. ((Controlled conditions at compost facilities)) These may include, but are not limited to, controlling odors, run-on and runoff, moisture levels, pH levels, carbon to nitrogen ratios, temperatures, oxygen levels, particle sizes, and free air space.

"Corrosion expert" means a person certified by the National Association of Corrosion Engineers (NACE) or a registered professional engineer who has certification or licensing that includes education and experience in corrosion control.

"Crop residues" means vegetative material ((leftover)) left over from farms from ((the)) harvesting ((of)) crops, including ((leftover)) left over pieces or whole fruits or vegetables, crop leaves and stems, and unprocessed produce from storage facilities. Crop residue does not include food processing waste.

"Cured concrete" means concrete which has been produced from design mixtures specified to produce a twenty-eight-day unconfined compressive strength of no less than twelve hundred pounds per square inch and allowed to harden. Off-specification concrete which does not achieve this minimum strength value may be evaluated for consideration as a cured concrete by the solid waste permitting agency on a case-by-case basis. Cured concrete may also contain embedded steel, wood, or plastic materials used in the reinforcement or tensioning of concrete structural elements. For the purposes of solid waste handling under this chapter, other cementitious materials are not considered to be cured concrete.

"Dangerous wastes" means any solid waste designated as dangerous waste by the department under chapter 173-303 WAC, Dangerous waste regulations.

"De minimis" means present in an amount as to have negligible effect on the look, characteristics, use, or impact to human health or the environment of a material. The presence of man-made materials such as, but not limited to, paper, plastic, metal, and demolition debris that can reasonably be

removed or that may become a litter problem is not de minimis.

"Department" means the Washington state department of ecology.

"Detachable containers" means reusable containers that are mechanically loaded or handled, such as a dumpster or drop box.

"Digestate" means both solid and liquid substances that remain following anaerobic digestion of organic material in an anaerobic digester.

"Disposable containers" means containers that are used once to handle solid waste, such as plastic bags, cardboard boxes and paper bags.

"Disposal" or **"deposition"** means the discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water.

"Domestic septage" means Class I, II or III domestic septage as defined in chapter 173-308 WAC, Biosolids management.

"Domestic wastewater facility" means all structures, equipment, or processes required to collect, carry away, treat, reclaim, or dispose of domestic wastewater together with ((such)) industrial waste ((as)) that may be present.

"Dredged material" means material excavated or dredged from below the ordinary high water mark of surface water. Material removed from a stormwater management device such as, but not limited to, a catch basin, is not dredged material.

"Drop box facility" means a facility used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas. Drop box facilities ((normally serve the general public with loose loads and)) receive waste from off-site, require waste placement directly into a container and not a tip floor, and serve the general public and not route collection vehicles.

"Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste. The recovery of energy ((in a useable form from)) may include mass burning or refuse-derived fuel incineration, ((pyrolysis)) or ((any)) other means of using the heat of combustion of solid waste that involves high temperature (above twelve hundred degrees Fahrenheit) ((processing)).

"Engineered soil" means soil that has been altered by the addition of man-made materials used to adjust soil engineering properties for construction projects, such as to alter shear strength or hydraulic conductivity of soil. Engineered soil includes, but is not limited to, soil with cementitious materials.

"Existing facility" means a facility ((which is owned or leased, and)) with one or more solid waste handling units in operation, or for which facility construction has begun, on or before the effective dates ((of)) in this chapter associated with each solid waste handling unit, and the owner or operator has met terms and conditions for permit exemption or obtained permits or approvals necessary under federal, state and local statutes, regulations and ordinances.

"Facility" means all contiguous land (including buffers and setbacks) and structures, other appurtenances, and improvements on the land used for solid waste handling.

"Facility construction" means the continuous on-site physical act of constructing solid waste handling unit(s) or when the owner or operator of a facility has entered into contractual obligations for physical construction of the facility that cannot be canceled or modified without substantial financial loss.

"Facility structures" means constructed infrastructure such as buildings, sheds, utility lines, and piping on the facility.

"Feedstock" means a source separated waste material used as a component of composting, manufacturing, or as part of an industrial process.

"Food processing waste" means a source-separated organic material that is generated by a food processing facility licensed to process food by the United States Department of Agriculture, the United States Food and Drug Administration, the Washington state department of agriculture, or other applicable regulatory agency. Food processing wastes may include, but are not limited to, sludge from food processing water treatment plants, culls, DAF (dissolved air flotation) from a food processing facility(())), pomace, and paunch manure, not intended for animal or human consumption.

"Garbage" means putrescible solid wastes.

"Glass" means typical window glass, glass containers, glass fiber, glass resistant to thermal shock, and glass ceramics. Glass materials containing significant concentrations of lead, mercury, or other toxic substances, and bulk loads of glass which contain non-de minimis amounts of other materials may not be disposed of in inert waste landfills.

"Groundwater" means that part of the subsurface water that is in the zone of saturation.

"Holocene fault" means a plane along which earthen material on one side has been displaced with respect to that on the other side and has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene to the present.

"Home composting" means composting of on-site generated wastes, and incidental materials beneficial to the composting process, by the owner or person in control of a single-family residence, or for a dwelling that houses two to five families, such as a duplex or clustered dwellings.

"Household hazardous waste((s))" means any waste ((which)) that exhibits any of the properties of dangerous wastes ((that)) but is exempt from regulation under chapter 70.105 RCW, Hazardous waste management, solely because the waste is generated by households. Household hazardous waste can also include other solid waste identified in the local hazardous waste management plan prepared pursuant to chapter 70.105 RCW, Hazardous waste management.

"Hydrostratigraphic unit" means any water-bearing geologic unit or units hydraulically connected or grouped together on the basis of similar hydraulic conductivity which can be reasonably monitored; several geologic formations or part of a geologic formation may be grouped into a single hydrostratigraphic unit; perched sand lenses may be considered a hydrostratigraphic unit or part of a hydrostratigraphic unit, for example.

"Incineration" means a process of reducing the volume of solid wastes operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.

"Incompatible waste" means a waste that is unsuitable for mixing with another waste or material because the mixture might produce excessive heat or pressure, fire or explosion, violent reaction, toxic dust, fumes, mists, or gases, or flammable fumes or gases.

"Indoor storage" means a structure with a roof and walls that protect solid waste from precipitation.

"Industrial solid wastes" means solid waste generated from manufacturing operations, food processing, or other industrial processes.

"Industrial wastewater facility" means all structures, equipment, or processes required to collect, ((carry away)) convey, treat, reclaim, or dispose of industrial wastewater.

((**"Inert waste"** means solid wastes that meet the criteria for inert waste in WAC 173-350-990.))

"Inert waste landfill" means a landfill that receives only inert wastes.

"Intermediate solid waste handling facility" means any intermediate use or processing site engaged in solid waste handling which is not the final site of disposal. This includes material recovery facilities, transfer stations, drop boxes, baling and compaction sites.))

"Intermodal facility" means any facility operated for the purpose of transporting closed containers of waste ((and)), when the containers are not opened for further treatment, processing or consolidation of the waste.

"Jurisdictional health department" means city, county, city-county or district public health department.

"Land application site" means ((a contiguous)) an area or areas of land under the same ownership or operational control on which solid wastes are beneficially ((utilized for their agronomic or soil amending capability)) used through application at an agronomic rate, as a soil amendment, or for land reclamation.

"Land reclamation" means using solid waste to restore ((drastically)) disturbed lands including, but not limited to, construction sites and surface mines. Using solid waste as a component of fill is not land reclamation.

"Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on land including facilities that use solid waste as a component of fill.

"Leachate" means water or other liquid within a solid waste handling unit that has been ((contaminated by dissolved or suspended materials due to contact with solid waste or gases)) in contact with solid waste or has been contaminated due to contact with landfill gas.

"Limited moderate risk waste" means waste batteries, waste oil, and waste antifreeze generated from households.

"Limited moderate risk waste facility" means a facility that collects, stores, and consolidates only limited moderate risk waste. Limited moderate risk waste facility does not include retailers and distributors operating as product take-back centers.

"Limited purpose landfill" means a landfill ((which)) that is not ((regulated or permitted by other state or federal environmental regulations that)) an inert waste landfill and

receives only solid wastes ((limited by type or source)) designated as nonhazardous and are not municipal solid wastes. Limited purpose landfills include, but are not limited to, landfills that receive segregated industrial solid waste, construction, demolition and ((landclearing)) land clearing debris, wood waste, ash (other than special incinerator ash), contaminated soil and contaminated dredged material. Limited purpose landfills do not include inert waste landfills, municipal solid waste landfills regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills, landfills disposing of special incinerator ash regulated under chapter 173-306 WAC, Special incinerator ash management standards, landfills regulated under chapter 173-303 WAC, Dangerous waste regulations, or chemical waste landfills used for the disposal of polychlorinated biphenyls (PCBs) regulated under Title 40 C.F.R. Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.

"Liquid" means a substance that flows readily and assumes the form of its container but retains its independent volume.

"Liquid waste" means any solid waste ((which is)) deemed to contain free liquids as determined by the Paint Filter Liquids Test, Method 9095, in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846.

"Lithified earth material" means all rock, including all naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete or asphalt, or unconsolidated earth materials, soil or regolith lying at or near the earth's surface.

"Local fire control agency" means a public or private agency or corporation providing fire protection such as a local fire department, the department of natural resources or the United States Forest Service.

"Lower explosive limit((s))" means the ((lowest percentage by volume of a mixture of explosive gases that will propagate a flame in air at twenty five degrees centigrade and atmospheric pressure)) minimum concentration of vapor in air below which propagation of a flame does not occur in the presence of an ignition source.

"Manufactured organics" means source separated solid wastes, such as nonplastic coated paper plates, cups, compostable bags, and other items designed to decompose through composting, anaerobic digestion, or through other organic materials recycling processes. Manufactured organics do not include physical contaminants such as plastics and coated paper products that will not readily decompose under typical composting conditions, or wood derived fuel or wood waste as defined in this ((section)) chapter.

"Manufactured topsoil" means soil or dredged material mixed with materials that improve the quality of the soil or dredged material for establishing vegetation and/or for water quality treatment purposes. If used as fill, material is not manufactured topsoil. Manufactured topsoil containing solid waste such as, but not limited to, laminate, plastic, or asphalt shingles, not otherwise excluded from this chapter, is subject to management under this chapter.

"Manure and bedding" means manure (feces) and bedding from ((herbivorous animals such as)) livestock and zoo animals including, but not limited to, horses, cows, chickens, sheep, and goats, and includes wash water from cleanup of such manure and bedding.

"Material recovery facility" means any facility that ((collects)) receives, compacts, repackages, or sorts((, or processes for transport)) source separated solid waste for the purpose of recycling.

"Mobile systems ((and collection events))" means activities ((conducted at a temporary location)) using a vehicle (such as a truck or trailer) to collect moderate risk waste from the public prior to transporting the material to an MRW facility, collection event, or permitted hazardous waste facility.

"Moderate risk waste (MRW)" means solid waste that is limited to conditionally exempt small quantity generator (CESQG) waste and household hazardous waste (HHW) as defined in this chapter.

"MRW facility" means a solid waste handling unit that is used to collect, treat, recycle, exchange, store, consolidate, and/or transfer moderate risk waste. This does not include mobile systems ((and)), collection events ((or)), limited MRW facilities, product take-back centers, or pharmaceutical collection programs that meet the applicable terms and conditions of WAC 173-350-360(2) ((or (3))).

"Municipal solid waste (MSW)" means a subset of solid waste which includes unsegregated garbage, refuse and similar solid waste material discarded from residential, commercial, institutional and industrial sources and community activities, including residue after recyclables have been separated. Solid waste that has been segregated by source and characteristic may qualify for management as a non-MSW solid waste, at a facility designed and operated to address the waste's characteristics and potential environmental impacts. The term MSW does not include:

((■)) **(a)** Dangerous wastes other than wastes excluded from the requirements of chapter 173-303 WAC, Dangerous waste regulations, in WAC 173-303-071 such as household hazardous wastes;

((■)) **(b)** Any solid waste, including contaminated soil and debris, resulting from response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601), chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act, chapter 173-340 WAC, ((the)) Model Toxics Control Act—Cleanup ((regulation)), or a remedial action taken under those statutes and rules; nor

((■)) **(c)** Mixed or segregated recyclable material that has been source-separated from garbage, refuse and similar solid waste. The residual from source separated recyclables is MSW.

"Natural background" means the concentration of chemical, physical, biological, or radiological substances consistently present in the environment that has not been influenced by regional or localized human activities. Metals at concentrations naturally occurring in bedrock, sediments and soils due solely to the geologic processes that formed the materials are natural background. In addition, low concentra-

tions of other persistent substances due solely to the global use or formation of these substances are natural background.

"New solid waste handling unit" means a solid waste handling unit that begins operation or ((facility)) construction after effective dates in this chapter associated with each solid waste handling unit, and an existing solid waste handling unit that begins significant modifications ((to existing solid waste handling units,)) after the effective dates ((of)) in this chapter associated with each solid waste handling unit.

"Nuisance odor" means any odor which is ((found)) offensive or may unreasonably interfere with any person's health, comfort, or enjoyment beyond the property boundary of a facility.

"On-farm" means activities taking place on any agricultural land under the control of the same entity including parcels that are not geographically contiguous but managed by the same entity for agricultural production.

"On-farm vegetative waste" means plant-based wastes produced on-farm from raising, growing, or processing plants and animals.

"One hundred-year flood plain" means any land area that is subject to one percent or greater chance of flooding in any given year from any source.

"Open burning" means the burning of solid waste materials in an open fire or an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

"Organic feedstocks" means source separated organic materials including bulking agents suitable for vermicomposting, composting, anaerobic digestion, and other processes that transform organic materials into usable or marketable materials.

"Organic materials" means any solid waste that is a biological substance of plant or animal origin capable of microbial degradation. Organic materials include, but are not limited to, manure, yard debris, food waste, food processing wastes, wood waste, and garden wastes.

"Other conversion technologies" means processes that transform organic feedstocks into useable or marketable materials, but does not include composting, vermicomposting, or anaerobic digestion.

"Overburden" means the earth, rock, soil, and topsoil that lie above mineral deposits.

((**"Permeability"** means the ease with which a porous material allows liquid or gaseous fluids to flow through it. For water, this is usually expressed in units of centimeters per second and termed hydraulic conductivity.))

"Permit" means an authorization issued by the jurisdictional health department ((which)) that allows a person to perform solid waste activities at a specific location and ((which)) includes specific conditions for ((such)) facility operations.

"Person" means an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity ((whatever)) whatsoever.

"Petroleum contaminated soil" means soil that contains petroleum materials from a release more substantial than releases expected during routine operations of vehicles. Releases may include, but are not limited to, releases from

leaking storage tanks or vehicular accidents. Petroleum materials include, but are not limited to, gasoline, diesel fuel, and fuel oil.

"Pharmaceutical collection program" means a program that collects unwanted pharmaceuticals, controlled or noncontrolled, from households only, that is authorized to collect under and is compliant with the requirements of Drug Enforcement Administration 21 C.F.R. Part 1317, Disposal (2014).

"Physical contaminants" as they relate to incoming feedstocks and compost quality means inorganic and organic constituents that are not readily decomposed during the composting process including, but not limited to, plastics, glass, textiles, rubber, leather, metal, ceramics, polystyrene, and wood pieces containing paint, laminates, bonding agents or chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

"Pile" means the storage or treatment of any noncontainerized accumulation of solid waste ((that is used for treatment or storage)).

"Plan of operation" means the written plan developed by an owner or operator of a facility detailing how a facility is to be operated during its active life.

"Point of compliance" means a ((point established in the groundwater by the jurisdictional health department as near a possible source of release)) location at which a monitored parameter can be measured and evaluated for compliance with established standards or permit conditions. For groundwater compliance monitoring, the point of compliance will be located as near to the downgradient edge of the solid waste handling activity as technically, hydrogeologically and geographically feasible. Other points of compliance in other media may be established by the solid waste permitting agency for solid waste handling facilities permitted under this chapter.

"Post-closure care" means ((the requirements placed upon disposal facilities after closure to ensure their environmental safety for at least a twenty year period or until the site becomes stabilized (i.e., little or no settlement, gas production, or leachate generation))) those actions taken by an owner or operator of a limited purpose landfill after closure, and until the landfill is determined by the solid waste permitting authority to be functionally stable.

"Post-closure plan" means a written plan developed by an owner or operator of a facility detailing how a facility is to meet the post-closure requirements for the facility.

"Post-consumer food waste" means source separated organic materials originally intended for human consumption including, but not limited to, vegetables, fruits, grains, meats and dairy products resulting from serving food. Post-consumer food waste is typically collected from cafeterias, homes, and restaurants.

"Preconsumer animal-based wastes" means source separated organic materials from animals such as meat, fat, dairy, or eggs that are a result of food preparation for human consumption or are products that did not reach the intended consumer. Preconsumer animal-based wastes are typically collected from food processing facilities and grocery stores.

"Preconsumer vegetative waste" means source separated organic materials from vegetables, such as pits, peels,

and pomace from human food preparation, or vegetable products that did not reach the consumer. Preconsumer vegetative wastes are typically collected from food processing facilities and grocery stores.

"Premises" means a tract or parcel of land with or without habitable buildings.

"Private facility" means a privately owned facility maintained on private property solely for the purpose of managing waste generated by the entity owning the site.

"Processing" means an operation to convert a material into a useful product or to prepare it for reuse, recycling, or disposal.

"Processing capacity" means the amount of incoming materials in tons or cubic yards that a solid waste facility can process in a given amount of time, such as a calendar year. Processing capacity is identified by the conditions of exemption, the permit, or the plan of operations as approved by the jurisdictional health department or the department.

"Product take-back center" means a retail outlet or distributor that accepts household hazardous waste of comparable types as the products offered for sale or distributed at that outlet.

"Public facility" means a publicly or privately owned facility that accepts solid waste generated by other persons((;)), or a publicly owned facility maintained on publicly owned property solely for the purpose of managing waste generated by the public entity owning the facility.

"Putrescible waste" means solid waste which contains material capable of being readily decomposed by microorganisms and which is likely to produce offensive odors.

((**"Pyrolysis"** means the process in which solid wastes are heated in an enclosed device in the absence of oxygen to vaporization, producing a hydrocarbon-rich gas capable of being burned for recovery of energy.))

"Recyclable materials" means those solid wastes that are separated for recycling or reuse, including, but not limited to, papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan.

"Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration. Recycling ((does not include collection, compacting, repackaging, and sorting for the purpose of transport)) includes processing waste materials to produce tangible commodities.

"Release" means any intentional or unintentional entry of a contaminant into the environment at more than de minimis amounts and includes, but is not limited to, spilling, leaking, pouring, emitting, emptying, discharging, adding, applying, amending, injecting, pumping, escaping, leaching, dumping, or disposing of any contaminant.

"Representative sample" means a sample that can be expected to exhibit the average properties of the sample source.

((**"Reserved"** means a section having no requirements and which is set aside for future possible rule making as a note to the regulated community.))

"Reusable containers" means containers that are used more than once to handle solid waste, such as garbage cans.

"Reuse" means using an object or material again, either for its original purpose or for a similar purpose, without sig-

nificantly altering the physical form of the object or material. Reuse is not solid waste handling, but separating materials from other solid wastes for reuse is solid waste handling. Use of solid waste as fill or alternative daily cover is not reuse.

"Runoff" means any rainwater, leachate or other liquid that drains over land from any part of the facility.

"Run-on" means any rainwater or other liquid that drains over land onto any part of a facility.

"Scavenging" means the removal of materials at a ((disposal)) facility, ((or intermediate solid waste handling facility,)) without the approval of the owner or operator and the jurisdictional health department.

"Seismic impact zone" means an area with a ten percent or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in two hundred fifty years.

"Setback" means that part of a facility that lies between the active area and the property boundary.

"Sewage sludge" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

"Site capacity" means the maximum amount of all material that can be contained on-site at any one time. Site capacity is identified by the conditions of exemption, the permit, or the plan of operations as approved by the jurisdictional health department or the department. All materials include, but are not limited to, incoming waste, feedstocks, bulking agents, stockpiled wastes, active composting, curing piles, composted materials, and sorted recyclable materials on-site.

"Soil" means material overlying bedrock consisting primarily of clay, silt, sand, gravel size particles, and soil biota, that may contain de minimis amounts of other materials. Soil does not include dredged material.

"Soil amendment" means any substance that is intended to improve the physical characteristics of soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70.95J RCW, Municipal sewage sludge—Biosolids, and wastewater, as regulated in chapter 90.48 RCW, Water pollution control.

"Solid waste," "waste materials," or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials. See WAC 173-350-021 to determine if a material is solid waste.

"Solid waste handling" means the management, storage, collection, transportation, treatment, use, processing or final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from ((such)) wastes or the conversion of the energy in ((such)) wastes to more useful forms or combinations thereof.

"Solid waste handling unit" means discrete areas of land, sealed surfaces, liner systems, excavations, facility structures, or other appurtenances within a facility used for solid waste handling.

"Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

"Specified risk material" means the skull, brain, trigeminal ganglia (nerves attached to brain and close to the skull exterior), eyes, spinal cord, distal ileum (a part of the small intestine), and the dorsal root ganglia (nerves attached to the spinal cord and close to the vertebral column) of cattle aged thirty months or older.

"Storage" means the holding of solid waste materials for a temporary period.

"Street waste" means solid or dewatered materials collected from stormwater catch basins and similar stormwater treatment and conveyance structures, and materials collected during street and parking lot sweeping.

"Surface impoundment" means a facility or part of a facility ((which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is)) designed to ((hold)) contain an accumulation of liquids or sludges, and whose structural support is provided primarily by earthen materials. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells or infiltration basins.

"Surface water" means all lakes, rivers, ponds, wetlands, streams, inland waters, salt waters and all other surface water and surface water courses within the jurisdiction of the state of Washington.

"Tank" means a ((stationary device)) facility or part of a facility designed to contain an accumulation of liquids or ((semisolid materials meeting the definition of solid waste or leachate, and which is constructed primarily of nonearthen materials to provide structural support.

"Throughput" means the amount of incoming feed stocks in tons or cubic yards that a solid waste facility processes in a given amount of time, such as a calendar year. Throughput is identified by the conditions of exemption, the permit, or the plan of operations as approved by the jurisdictional health department or the department) sludges, and designed and constructed of materials with sufficient strength so that its walls can be self-supporting.

"Transfer station" means a ((permanent, fixed, supplemental collection and transportation)) facility((, used by)) that receives solid waste (e.g., municipal solid waste, contaminated soil, or other solid wastes) from off-site from persons ((and)) or route collection vehicles ((to deposit collected solid waste from off-site into a larger)) for consolidation into transfer vehicles, vessels, or containers for transport to a solid waste handling facility.

"Treatment" means the physical, chemical, or biological processing of solid waste to make ((such)) solid wastes safer for storage or disposal, amenable for recycling or energy recovery, or reduced in volume.

"Twenty-five-year storm" means a storm of twenty-four hours duration and of such an intensity that it has a four percent probability of being equaled or exceeded each year.

"Universal wastes" means universal wastes as defined in chapter 173-303 WAC, Dangerous waste regulations. Universal wastes include, but may not be limited to, dangerous waste batteries, mercury-containing thermostats, and universal waste lamps generated by fully regulated dangerous waste generators or CESQGs.

"Unstable area" means a location that is susceptible to forces capable of impairing the integrity of the facility's liners, monitoring system or structural components. Unstable areas can include poor foundation conditions and areas susceptible to mass movements.

"Vadose zone" means that portion of a geologic formation in which soil pores contain some water, the pressure of that water is less than atmospheric pressure, and the formation occurs above the zone of saturation.

"Vector" means a living animal((,)) including, but not limited to, insects, rodents, and birds, which is capable of transmitting an infectious disease from one organism to another.

"Vermicomposting" means the controlled and managed process by which live worms convert organic residues into dark, fertile, granular excrement.

"Waste tires" means any tires that are no longer suitable for their original intended purpose because of wear, damage or defect. Used tires, which were originally intended for use on public highways that are considered unsafe in accordance with RCW 46.37.425, are waste tires. Waste tires also include quantities of used tires that may be suitable for their original intended purpose when mixed with tires considered unsafe per RCW 46.37.425.

"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Wood derived fuel" means wood pieces or particles used as a fuel for energy recovery, which contain paint, bonding agents, or creosote. Wood derived fuel does not include wood pieces or particles coated with paint that contains lead or mercury, or wood treated with other chemical preservatives such as pentachlorophenol, copper naphthenate, or copper-chrome-arsenate.

"Wood waste" means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, construction, demolition, handling and storage of raw materials, trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, ((hogged fuel,)) and log sort yard waste, but does not include wood pieces or particles containing paint, laminates, bonding agents or chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate.

"Yard debris" means plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping or similar activities. Yard debris includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris.

"Zone of saturation" means that part of a geologic formation in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-200 Beneficial use permit exemptions.

(1) Beneficial use permit exemptions - Applicability. ((Any person may apply to the department for exemption from the permitting requirements of this chapter for beneficial use of solid waste. Applications for permit exemptions shall be prepared and submitted in accordance with the requirements of subsections (3) and (4) of this section. Upon the department's approval of an application for permit exemption, all approved beneficial use of solid waste shall be conducted in accordance with the terms and conditions for approval, as well as those general terms and conditions prescribed in subsection (2) of this section.

(2))

(a) This section applies to the beneficial use of solid waste in a manner approved by the department when the department has approved a beneficial use permit application.

(b) This section does not apply to:

(i) Solid waste handling facilities requiring permits or facilities operating under a conditional exemption authorized by RCW 70.95.305;

(ii) Materials used as alternative daily cover at landfills, which requires approval as part of the solid waste permitting process or subsequent allowance by the jurisdictional health department; and

(iii) Use of a solid waste as a component of fill unless a demonstration shows that the material meets specific engineering needs and specifications other than occupying space. Any proposal made under this section to use solid waste as a component of fill must be certified by a professional engineer registered in the state of Washington, in an engineering discipline appropriate for the proposed activity.

(2) Beneficial use permit exemptions - Application procedures.

(a) Applications for permit exemptions must be prepared and submitted on forms prescribed by the department and in accordance with the requirements of this subsection. Any person(s) applying for a beneficial use permit exemption must demonstrate to the satisfaction of the department that the proposed use of the specific solid waste does not present a threat to human health or the environment. The application must at a minimum contain the following:

(i) The name(s), address(es), and phone number(s) of the waste generator(s);

(ii) The name(s), address(es), and phone number(s) of the applicant;

(iii) The uniform business identifier number for the waste generator and any third-party handler of the waste material;

(iv) A detailed description of the solid waste, including ingredients used in making the original product from which the solid waste is derived, and the proposed beneficial use;

(v) Evidence that the material will perform as claimed;

(vi) A description of how the waste will be transported or distributed for the proposed beneficial use;

(vii) A description of the materials that contribute or potentially contribute contaminants/pollutants to the waste to be beneficially used;

(viii) A schematic and text summary of the waste generator(s) operations, including all points where wastes are generated, treated or stored;

(ix) A description of how terms and conditions of subsection (3)(a) of this section will be met;

(x) A State Environmental Policy Act checklist under chapter 197-11 WAC, SEPA rules;

(xi) Appropriate signatures as described in WAC 173-350-715(3);

(xii) If the beneficial use is proposed as a soil amendment, or for other solid wastes beneficially applied to the land, a description of how the terms and conditions of subsection (3)(b) of this section will be met; and

(xiii) Any additional information deemed necessary by the department.

(b) Once the department determines that the application is complete, the department will notify the applicant and initiate the public review process outlined in subsection (5) of this section.

(c) Once the public review process outlined in subsection (5) of this section has begun, any changes to the application or submittal of additional information by the applicant will result in a withdrawal of the completeness determination by the department and termination of the public review process. The department will resume review of the amended application in accordance with the procedures of subsection (5) of this section.

(d) After completion of the comment period, the department will review comments, technical information from agency and other publications, standards published in regulations, and other information deemed relevant by the department to render a decision.

(e) Every complete application will be approved or disapproved by the department in writing within ninety days after receipt. Exemptions will be granted by the department only to those beneficial uses of solid waste that the department determines do not present a threat to human health or the environment.

(f) Upon approval of the application by the department, the beneficial use of the solid waste by the original applicant is exempt from solid waste permitting for use anywhere in the state consistent with the terms and conditions of the approval.

(3) Beneficial use permit exemptions - General terms and conditions.

(a) The following general terms and conditions apply to all permit exempt beneficial uses of solid waste approved by the department. All persons beneficially using solid waste

approved for permit exemption in accordance with this section ((shall)) must:

(i) Conduct the beneficial use in a manner that does not present a threat to human health or the environment;

(ii) Ensure that the material is not a dangerous waste regulated under chapter 173-303 WAC, Dangerous waste regulations;

(iii) Not dilute a waste, or the residual from treatment of a waste((s)) in order to lessen contaminant concentrations inherent in the waste as a substitute for treatment or disposal;

(iv) ((Comply with all applicable federal, state, and local rules, regulations, requirements and codes, and local land use requirements;)) Meet the performance standards of WAC 173-350-040;

(v) Immediately notify the department and the jurisdictional health department of any accidental release(s) of contaminants to the environment;

(vi) Separate wastes intended for beneficial use from other wastes that are ((destined)) intended for disposal or other destination, prior to entering the location where the beneficial use will occur;

(vii) Manage the waste in a manner that controls vector attraction;

(viii) Ensure that solid waste being stored prior to being beneficially used is managed in accordance with the requirements of all applicable sections of this chapter unless alternative intermediate storage is approved by the department during the beneficial use exemption application review process;

(ix) Allow the department or the jurisdictional health department, at any reasonable time, to inspect the location where a permit exempt solid waste is stored or used to ensure compliance with applicable terms and conditions of this section; and

(x) Prepare and submit ((a copy of)) an annual report to the department by April 1st on forms supplied by the department. The annual report ((shall)) must detail the activities of the exemption holder during the previous calendar year and ((shall)) must include the following information:

(A) The permit exemption number applicable to the beneficial use activity;

(B) The name, address, and telephone number of the exemption holder;

(C) The amount of solid waste beneficially used;

(D) A certification that the nature of the waste and the operating practices have been in compliance with the terms and conditions of this section and the approved beneficial use permit exemption during the previous calendar year; and

(E) Any additional information ((that may be specified)) required by the department ((under)) as a condition of the beneficial use ((permit exemption)) determination.

(b) In addition to the general terms and conditions established in (a) of this subsection, solid wastes applied to the land for agronomic value or soil amending capability under a beneficial use permit exemption ((shall)) must:

(i) Provide an analysis of nutrients at a minimum to include organic nitrogen, nitrate-nitrogen, ammonium-nitrogen, total phosphorus, and total potassium, reported on a dry weight basis;

(ii) Provide an analysis of physical/chemical parameters to include at a minimum: Total solids, total volatile solids, pH, electrical conductivity, and total organic carbon;

(iii) Provide a discussion of any pathogens known or suspected to be associated with this material, including those that can cause disease in plants, animals or humans;

(iv) Provide additional analysis required by the department. The department may reduce the analytical requirements of this section;

(v) Meet the standards for metals ((standards required)) established by the Washington state department of agriculture ((WSDA)) for registered commercial fertilizers ((by following the procedures of WAC 16-200-7062 through 16-200-7064, Feeds, fertilizers, and livestock remedies)) regulated under WAC 16-200-7061 through 16-200-7064, Fertilizers;

((ii) Be applied)) (vi) Apply at an application rate and in a manner that ensures protection of groundwater and surface water((. At a minimum, the application rate shall take into account the concentration of available nutrients and micronutrients in the soil amendment, other solid waste applied to the land, residual nutrients at the application site(s), additional sources of nutrients, pollutant loading rates, soil and waste pH, soil type, crop type and vertical separation from groundwater; and

((iii))) and does not exceed an application rate that would violate the Washington state department of agriculture standards for metals in fertilizers; and

(vii) Not be stored at an application site during periods when precipitation ((or)), wind, or other factors will cause migration from the storage area, unless the site is specifically designed to accommodate storage during these periods and storage is approved by the department during the permit exemption application process. The quantity stored at an application site ((shall)) must not exceed the ((maximum)) amount needed to meet the annual needs of the site based on the approved application rate. When a soil amendment is stored at an application site it ((shall)) must not contain free liquid waste unless the requirements of WAC 173-350-330 are met or an alternative storage method is approved by the department during the permit exemption application process.

(c) The department may require a person operating under any exemption issued under this section to meet additional or more stringent requirements for protection of human health and the environment, or to ensure compliance with other applicable regulations:

(i) At the time the department approves an application for a beneficial use permit exemption; or

(ii) When new information becomes available that warrants additional protections, but in the opinion of the department does not necessitate revocation of the beneficial use permit exemption.

(d) The department ((shall)) will notify ((in writing)) the exempted party and all jurisdictional health departments of any additional or more stringent requirements.

((3) *Beneficial use permit exemption - Initial application procedure.* Any person(s) interested in obtaining a statewide exemption from solid waste permitting requirements for the beneficial use of a solid waste must demonstrate to the satisfaction of the department that the proposed use does not

present a threat to human health and the environment. Applications shall be submitted to the department on a form supplied by the department. All application attachments and other submittals must be on paper no larger than 11 inch x 17 inch. The application shall at a minimum contain the following:

- (a) The name(s), address(es) and phone number(s) of the waste generator(s);
- (b) The name(s), address(es) and phone number(s) of the applicant. If the applicant is a broker or other third party the uniform business identifier number shall also be included;
- (c) A list of all product(s) made by the waste generator(s);
- (d) A list of all feedstocks used to manufacture the product(s);
- (e) A description of the solid waste and the proposed beneficial use;
- (f) A description of how the waste will be transported or distributed for the proposed beneficial use;
- (g) A description of other materials that contribute or potentially contribute contaminants/pollutants to the waste to be beneficially used;
- (h) A schematic and text summary of the waste generator(s) operations, including all points where wastes are generated, treated or stored;
- (i) A description of how terms and conditions of subsection (2)(a) of this section will be met;
- (j) A State Environmental Policy Act checklist;
- (k) If the beneficial use is proposed as a soil amendment, or for other solid wastes beneficially applied to the land, a description of how the terms and conditions of subsection (2)(b) of this section will be met; and
- (l) Any additional information deemed necessary by the department.)

(4) Beneficial use permit exemptions - Secondary application procedure. Beneficial use permit exemptions, approved by the department in accordance with the procedures of subsection (5) of this section, are granted solely to the original applicant(s). Any person, other than the original applicant(s), interested in beneficially using solid waste pursuant to the terms and conditions of an existing permit exemption ((shall)) must apply to the department by following the procedures described in subsection ((3)) (2) of this section.

(5) Beneficial use permit exemptions - ((Determination, revocation, and appeals)) Public review process.

((The department shall review every application for completeness.)) Once an application is determined to be complete, the department ((shall)) will:

- (i) Notify the applicant that the application has been determined to be complete((.));
- (ii) ((Forward a copy of)) Notify all jurisdictional health departments, interested parties, representatives of the solid waste industry, and the Washington department of agriculture that a proposal is under consideration and provide access to the complete application and supporting documentation ((to all jurisdictional health departments for review and comment. Within forty-five calendar days, the jurisdictional health departments shall forward their comments and any other information that they deem relevant to the department.

((iii) The department shall develop and maintain a register of all complete applications it receives for beneficial use exemptions. The register shall include information regarding the proposed beneficial use and process for submitting comments. The department shall maintain a list of interested parties and forward the register to those parties. The department may provide the register and application information in an electronic form upon request by an interested party.))

((b) Once a determination is made by the department that an application is complete and the public review process has begun, any changes to the application or submittal of additional information by the applicant shall result in a withdrawal of the completeness determination by the department and termination of the public review process. The department shall resume review of the amended application in accordance with the procedures of (a) of this subsection.))

((c) After completion of the comment period, the department shall review comments, technical information from agency and other publications, standards published in regulations, and other information deemed relevant by the department to render a decision.))

((d) Every complete application shall be approved or disapproved by the department in writing within ninety days after receipt. Exemptions shall be granted by the department only to those beneficial uses of solid waste that the department determines do not present a threat to human health or the environment.))

((e) Upon approval of the application by the department, the beneficial use of the solid waste by the original applicant is exempt from solid waste handling permitting for use anywhere in the state consistent with the terms and conditions of the approval.))

((f)) via the department's web site for review and comment. Access to the proposal and supporting documentation will be available in hard copy or other format upon request;

((iii) Post the complete proposal and supporting documentation on the agency's web site for not less than forty-five calendar days along with instructions for commenting on the proposal;

((iv) Within forty-five calendar days, any person or jurisdictional health department may comment on the application by forwarding comments and any other information deemed relevant to the department; and

((v) The Washington state department of agriculture's comments must be limited to addressing whether approving the application will result in the risk of spreading disease, plant pathogens, or pests to areas that are not under a quarantine, as defined in RCW 17.24.007.))

((b) The department will develop and maintain a register of all complete applications it receives for beneficial use exemptions, and all approvals and denials. The register will include information regarding the proposed beneficial use and the waste being beneficially used.))

((c) The department will maintain a list of interested parties and solid waste industry contacts.))

(6) Beneficial use permit exemptions - Revocations, enforcement, and appeals.

((a) The department may require a person operating under any exemption covered by this section to apply to the juris-

dictional health department for a solid waste handling permit under the applicable section of this chapter if:

(i) The exemption holder fails to comply with the terms and conditions of this section and the approval; or

(ii) The department determines that the exemption was obtained by misrepresenting or omitting any information that potentially could have affected the issuance or terms and conditions of an exemption; or

(iii) New information not previously considered or available as part of the application demonstrates to the department that management of the waste under a beneficial use permit exemption may present a threat to human health or the environment.

((g)) (b) The department ((shall)) will provide written notification to the exempted party and all jurisdictional health departments of any requirement to apply for a permit under this chapter. A person that is required by the department to apply for permit coverage ((shall)) must immediately cease beneficial use activities until all necessary solid waste handling permits are issued.

((h)) (c) The terms and conditions of subsection ((2)) (3)(a)(viii) of this section ((shall)) remain in effect until the solid waste handling permit process has been completed unless an administrative order issued under the authority of RCW 70.95.315 directs that use activities cease.

((i)) (d) Any person that violates the terms and conditions of a beneficial use permit exemption issued under this section may be subject to the ((civil penalty)) enforcement provisions of RCW 70.95.315.

((j)) (e) Appeals of the department's decision to issue or deny or revoke a beneficial use permit exemption ((shall)) must be made to the pollution control hearings board by filing with the hearings board a notice of appeal within thirty days of the decision of the department. The board's review of the decision ((shall)) will be made in accordance with chapter 43.21B RCW, Environmental and land use hearings office—Pollution control hearings board, and any subsequent appeal of a decision of the board ((shall)) must be made in accordance with RCW 43.21B.180. Persons that may appeal are:

(i) For waste derived soil amendments any aggrieved party may appeal(()); and

(ii) For all other beneficial uses of solid waste any jurisdictional health department or the applicant may appeal.

((k)) (7) **Beneficial use permit exemptions - Solid waste exempt from permitting by rule.** Reserved.

Note: RCW 70.95.300 contains provisions that allow the department to exempt from permitting certain beneficial uses of solid waste by rule. The statute also requires the department to develop an application and approval process by which a person could apply for a beneficial use permit exemption. At this time the department has chosen to limit rule making to development of the required application and approval process, and hold a section in reserve for future development of a list of approved beneficial uses.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-210 Recycling and material recovery facilities. (1) **Recycling and material recovery facilities - Applicability.**

(a) These standards apply to recycling ((solid waste)) and material recovery facilities.

(b) These standards do not apply to:

((a)) (i) Storage((;)) or treatment ((or reeyeling)) of solid waste in outdoor piles ((which are)) subject to WAC 173-350-320;

((b)) (ii) Storage or recycling of solid waste in surface impoundments ((which are)) subject to WAC 173-350-330;

((c)) (iii) Composting facilities subject to WAC 173-350-220;

((d)) (iv) Solid waste that is beneficially used ((on the land that is subject to WAC)) and approved in accordance with the procedures of WAC 173-350-200 or 173-350-230;

((e)) (v) Storage of waste tires prior to recycling ((which is)) subject to WAC 173-350-350;

((f)) (vi) Storage of moderate risk waste prior to recycling ((which is)) subject to WAC 173-350-360;

((g)) (vii) Energy recovery or incineration of solid waste ((which is)) subject to WAC 173-350-240;

((h)) Intermediate solid waste handling facilities subject to WAC 173-350-310; (viii) Anaerobic digesters subject to WAC 173-350-250;

(ix) Other organic materials handling subject to WAC 173-350-225;

(x) Drop boxes used solely for collecting recyclable materials subject to WAC 173-350-310;

(xi) Treatment of contaminated soils or contaminated dredge material indoors subject to WAC 173-350-490.

(2) **Recycling and material recovery facilities - Permit exemptions** ((and notification:

(a)) In accordance with RCW 70.95.305, recycling ((of solid waste is subject solely to the requirements of (b) of this subsection and is)) and material recovery facilities managed in accordance with the terms and conditions of Table 210-A of this subsection are exempt from solid waste handling permitting. ((Any person engaged in reeyeling that does not comply with the terms and conditions of (b) of this subsection is required to obtain a permit from the jurisdictional health department in accordance with the requirements of WAC 173-350-490.)) If a facility does not operate in compliance with the terms and conditions established for an exemption under this subsection, the facility may be subject to the permitting requirements for solid waste handling under this chapter. In addition, violations of the terms and conditions of ((b)) this subsection may be subject to the ((penalty)) enforcement provisions of RCW 70.95.315.

((b)) Reeyeling shall be conducted in conformance with the following terms and conditions in order to maintain permit exempt status:

(i) Meet the performance standards of WAC 173-350-040;

(ii) Accept only source separated solid waste for the purpose of reeyeling;

(iii) Allow inspections by the department or jurisdictional health department at reasonable times;

(iv) Notify the department and jurisdictional health department, thirty days prior to operation, or ninety days from the effective date of the rule for existing reeyeling operations, of the intent to conduct reeyeling in accordance with

this section. Notification shall be in writing, and shall include:

- (A) Contact information for the person conducting the recycling activity;
 - (B) A general description of the recycling activity;
 - (C) A description of the types of solid waste being recycled; and
 - (D) An explanation of the recycling processes and methods;
- (v) Prepare and submit an annual report to the department and the jurisdictional health department by April 1st on forms supplied by the department. The annual report shall

detail recycling activities during the previous calendar year and shall include the following information:

- (A) Name and address of the recycling operation;
- (B) Calendar year covered by the report;
- (C) Annual quantities and types of waste received, recycled and disposed, in tons, for purposes of determining progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010 (4); and
- (D) Any additional information required by written notification of the department.)

Table 210-A

Terms and Conditions for Solid Waste Permit Exemption

	Waste Materials	Specific Requirements for Activity or Operation
(1)	<u>Concrete or wood waste at point of generation</u>	<ul style="list-style-type: none"> (a) Meet the performance standards of WAC 173-350-040; and (b) Recycle and use materials back on-site.
(2)	<u>Comingled brick, cured, concrete, or asphaltic materials</u>	<ul style="list-style-type: none"> (a) Meet the performance standards of WAC 173-350-040; (b) Allow inspections by the department or jurisdictional health department at reasonable times; (c) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department and must be complete; and (d) Prepare and submit an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report must detail material recovery or recycling activities during the previous calendar year and must include the following information: <ul style="list-style-type: none"> (i) Name and address of the operation; (ii) Calendar year covered by the report; (iii) Annual quantities and types of waste received, recovered or recycled, and disposed, in tons; (iv) Destination of materials; and (v) Any additional information required by the department.
(3)	<u>Source-separated recyclable materials</u>	<ul style="list-style-type: none"> (a) Meet the performance standards of WAC 173-350-040; and (b) Accept only wastes segregated into individual material streams. Examples of individual material streams are loads composed solely of cardboard, mattresses, or metal of one type or several types. More than one individual material stream may be accepted at the same facility, but mixed waste materials, including commingled recyclable materials, may not be accepted under this exemption; (c) Dispose of an incidental and accidental residual not to exceed five percent of the total waste received, by weight per year, and five percent by weight per load; (d) Manage the operation to prevent the attraction of vectors; (e) Allow inspections by the department or jurisdictional health department at reasonable times; (f) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department and must be complete; and

<u>Waste Materials</u>	<u>Specific Requirements for Activity or Operation</u>
	<p>(g) Prepare and submit an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report must detail material recovery or recycling activities during the previous calendar year and must include the following information:</p> <ul style="list-style-type: none"> (i) Name and address of the operation; (ii) Calendar year covered by the report; (iii) Annual quantities and types of waste received, recovered or recycled, and disposed, in tons; (iv) Destination of materials; and (v) Any additional information required by the department.

(3) Recycling and material recovery facilities - Permit requirements - Location. There are no specific location standards for recycling and material recovery facilities subject to permitting under this chapter; however, recycling and material recovery facilities must meet the performance standards of WAC 173-350-040.

(4) Recycling and material recovery facilities - Permit requirements - Design. Recycling and material recovery facilities must be designed so that the facilities can be operated to meet the performance standards of WAC 173-350-040. The owner or operator of a recycling or material recovery facility must prepare engineering reports/plans and specifications to address the following design standards:

(a) Control public access, and prevent unauthorized vehicular traffic and illegal dumping of waste;

(b) Be sturdy and constructed of easily cleanable materials;

(c) Provide effective means to control rodents, insects, birds, and other vectors;

(d) Provide effective means to control litter including, but not limited to, orientation of the tipping floor in a manner that prevents prevailing winds from moving waste outside the collection area when other structures are not in place to prevent this;

(e) Provide a tip floor made of impervious material such as concrete or asphalt to prevent soil and groundwater contamination. The surface must be durable enough to withstand equipment. The jurisdictional health department may approve other types of surfaces if the applicant can demonstrate that it will prevent soil and groundwater contamination;

(f) Cover the tipping floor to protect it from precipitation;

(g) Convey leachate from the tipping floor to a surface impoundment, tank or sanitary sewer, or use other methods approved by the jurisdictional health department to prevent uncontrolled discharge;

(h) Provide for stormwater runoff collection and discharge from a twenty-five-year storm;

(i) Provide pollution control measures to protect air quality; and

(j) Provide all-weather surfaces for vehicular traffic.

(5) Recycling and material recovery facilities - Permit requirements - Documentation.

(a) The owner or operator must submit facility drawings and construction documents for, at a minimum, any elements described in subsection (4) of this section to the jurisdictional

health department for review and approval. The facility drawings and construction documents must be prepared by a professional engineer registered in the state of Washington, and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features. The engineering report must demonstrate that the proposed design will meet the performance standards of WAC 173-350-040;

(ii) Scale drawing of the facility including the location and size of waste handling areas, fixed equipment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility as applicable; and

(iv) For new construction, a construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility, to ensure the facility is constructed in accordance with the approved design.

(b) The owner or operator must provide copies of the construction record drawings for engineered features at the facility and a report documenting facility construction, including the results of observations and any testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. The owner or operator must not commence operation in a newly constructed portion of the facility until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

(6) Recycling and material recovery facilities - Permit requirements - Operating. The owner or operator of a recycling or material recovery facility must:

(a) Operate the site in compliance with the performance standards of WAC 173-350-040 and this subsection. In addition the owner or operator must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan of operation must be available for inspection at the request of the jurisdictional health department. If necessary, the plan must be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of waste materials to be handled at the facility;

(ii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;

(iii) A description of how waste materials are to be handled on-site, including recycling or recovery, storage, maximum site capacity, method of adding or removing waste materials from the facility, and equipment used;

(iv) A description of how the owner or operator will ensure the facility is operated in a way to:

(A) Control litter, dust, and nuisance odors;

(B) Control rodents, insects, and other vectors;

(C) Provide attendant(s) on-site during hours of operation;

(D) Provide a sign at the site entrance that identifies the facility and shows at a minimum the name of the site;

(E) Immediately summon fire, police, or emergency service personnel in the event of an emergency;

(F) Remove or otherwise manage leachate from containment structure(s) to prevent soil and/or groundwater contamination;

(G) Remove waste materials from the tipping floor at a frequency approved by the jurisdictional health department; and

(H) Ensure that waste materials capable of attracting birds do not pose an aircraft safety hazard.

(v) A description of how operators will inspect and maintain the facility to prevent malfunctions, deterioration, operator errors, and discharges that may cause or lead to the release of wastes to the environment or a threat to human health, including the inspection form operators will use. Inspections must be conducted as needed, but at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process;

(vi) A description of how operators will maintain operating records on the amounts (weight or volume) and types of waste received and removed from the facility, including the form or computer printout used to record this information. Facility annual reports must be maintained in the operating record. Facility inspection reports must be maintained in the operating record, including at least the date of inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. Significant deviations from the plan of operation must be noted in the operating record. Records must be kept for a minimum of five years and must be available upon request by the jurisdictional health department;

(vii) Safety and emergency plans; and

(viii) Other details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(b) Prepare and submit an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report must detail recycling or material recovery activities during the previous calendar year and must include the following information:

(i) Name and address of the recycling or material recovery operation;

(ii) Calendar year covered by the report;

(iii) Annual quantities and types of waste received, recovered or recycled, and disposed, in tons;

(iv) Destination of material; and

(v) Any additional information required by the jurisdictional health department as a condition of the permit.

(7) Recycling and material recovery facilities - Permit requirements - Groundwater monitoring. There are no specific groundwater monitoring requirements for recycling and material recovery facilities subject to this chapter; however, recycling and material recovery facilities must meet the performance standards of WAC 173-350-040.

(8) Recycling and material recovery facilities - Permit requirements - Closure. The owner or operator of a recycling or material recovery facility must develop, keep, and follow a closure plan that includes:

(a) Notification to the jurisdictional health department sixty days in advance of closure;

(b) Removal of all waste material to a facility that conforms with the applicable regulations for handling the waste; and

(c) Methods of removing waste material.

(9) Recycling and material recovery facilities - Permit requirements - Financial assurance. There are no specific financial assurance requirements for recycling and material recovery facilities subject to this chapter; however, recycling and material recovery facilities must meet the performance standards of WAC 173-350-040.

(10) Recycling and material recovery facilities - Permit application contents. The owner or operator of a recycling or material recovery facility must obtain a solid waste permit from the jurisdictional health department. All applications for permits must be submitted according to the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit must contain:

(a) Engineering reports/plans and specifications that address the standards of subsections (4) and (5) of this section;

(b) A plan of operation meeting the applicable requirements of subsection (6) of this section;

(c) A closure plan meeting the requirements of subsection (8) of this section; and

(d) Any additional information required by written notification of the jurisdictional health department.

AMENDATORY SECTION (Amending WSR 13-08-016, filed 3/25/13, effective 4/25/13)

WAC 173-350-220 Composting facilities. (1) **Composting facilities - Applicability.**

(a) ((This section applies)) These standards apply to all facilities that treat solid waste by composting. ((This section does))

(b) These standards do not apply to:

(i) Methods of managing organic materials that are excluded from the solid waste handling standards in WAC 173-350-020;

(ii) Composting used as a treatment for contaminated soil((s)) or contaminated dredged material regulated under WAC 173-350-320 or 173-350-490;

(iii) Anaerobic digesters regulated under WAC 173-350-250, or treatment of other liquid or solid wastes in digesters regulated under WAC 173-350-330;

(iv) Composting of bovine and equine carcasses for producers subject to RCW 70.95.306. Producers that fail to meet the conditions of RCW 70.95.306 will be required to obtain a solid waste handling permit from the jurisdictional health department and must comply with all other conditions of this chapter; and

(v) Composting biosolids when managed under chapter 173-308 WAC, Biosolids management.

((b))) (2) Composting facilities - Permit exemptions.
In accordance with RCW 70.95.305, conditionally exempt

facilities composting materials and volumes in Table 220-A must meet the conditions listed in Table 220-A, and ((e))) (a) through (e) of this subsection to be conditionally exempt from solid waste handling permitting. Feedstocks not listed in Table 220-A must be approved by the department and jurisdictional health department. For the purposes of this subsection, "material on-site at any one time" includes feedstocks, active composting, curing piles, and composted materials. An owner or operator that does not comply with the terms and conditions of Table 220-A and ((e))) (a) of this subsection is required to obtain a permit from the jurisdictional health department and must comply with all other applicable requirements of this chapter. Violations of the terms and conditions of Table 220-A and ((e))) (a) of this subsection may be subject to the ((penalty)) enforcement provisions of RCW 70.95.315.

Table 220-A

Terms and Conditions for Solid Waste Permit Exemptions

	Organic Materials	Volume	Specific Requirements for Activity or Operation
(1)	All organic feedstocks	No more than 5,000 gallons or 25 cubic yards of material on-site at any one time.	No notification, reporting or testing requirements.
(2)	All organic feedstocks	Greater than 25 but no more than 250 cubic yards of material on-site at any one time, not to exceed 1,000 cubic yards in a calendar year.	<p>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department;</p> <p>(b) Facilities that distribute composted material off-site must meet the following conditions:</p> <p>(i) Manage the operation to reduce pathogens to meet limits set by Table 220-B;</p> <p>(ii) Conduct compost analysis according to the requirements of Table 220-B. Compost testing frequency is based on volume of compost produced annually as required by subsection (4)(a)(x)(B) of this section; and</p> <p>(iii) Submit annual reports and results of composted material analysis to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</p>
(3)	Yard debris Crop residues Manure and bedding Bulking agents	Greater than 25 but no more than 500 cubic yards of material on-site at any one time, not to exceed 2,500 cubic yards processed in a calendar year.	<p>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department.</p> <p>(b) Facilities that distribute composted materials off-site must meet the following conditions:</p>

	Organic Materials	Volume	Specific Requirements for Activity or Operation
			<ul style="list-style-type: none"> (i) Manage the operation to reduce pathogens to meet limits set by Table 220-B; (ii) Conduct compost analysis according to the requirements of Table 220-B. Compost testing frequency is based on volume of compost produced annually as required by subsection (4)(a)(x)(B) of this section; and (iii) Submit annual reports and results of composted material analysis to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.
(4)	Agricultural wastes Yard debris Bulking agents	Greater than 25 but no more than 1,000 cubic yards of agricultural wastes and bulking agents on-farm at any one time, and up to 50% of organic materials on-farm can be yard debris.	<p>Agricultural farms managing more than 25 cubic yards of imported yard debris on-site at any one time or composting only agricultural wastes but that distribute off-site must meet the following conditions:</p> <ul style="list-style-type: none"> (a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notification must be submitted on a form provided by the department; (b) If agricultural farm is only managing agricultural waste and not distributing composted material off farm, then notification in (4)(a) of this table is not required; (c) Facilities that distribute composted material off-site must meet the following conditions: <ul style="list-style-type: none"> (i) Manage operation to reduce pathogens to meet limits set by Table 220-B of this section; (ii) Conduct compost analysis according to the requirements of Table 220-B. Compost testing frequency is based on volume of compost produced annually as required by subsection (4)(a)(x)(B) of this section; and (iii) Submit annual reports and results of composted material analysis to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.
(5)	Agricultural wastes Manure and bedding from zoos Bulking agents	Greater than 25 cubic yards with no upper limits when only agricultural wastes, manure and bedding from zoos, and bulking agents are processed on-farm, or on-site for zoos.	<p>Agricultural farms that distribute composted material off-farm, or off-site for zoos, must meet the following conditions:</p> <ul style="list-style-type: none"> (a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notification must be submitted on a form provided by the department;

	Organic Materials	Volume	Specific Requirements for Activity or Operation
			<p>(b) For composting at a dairy, composting must occur as part of an updated dairy nutrient management plan as required by chapter 90.64 RCW, Dairy Nutrient Management Act;</p> <p>(c) For composting at a farm other than a dairy, composting must occur as part of an updated farm management plan written in conjunction with a conservation district, a qualified engineer, or other agricultural professional able to certify that the plan meets applicable conservation practice standards in the USDA <i>Washington Field Office Technical Guide</i>, Code 317, produced by the Natural Resources Conservation Service;</p> <p>(d) Facilities that distribute composted material off-site must meet the following conditions:</p> <p>(i) Manage the operation to reduce pathogens to meet limits set by Table 220-B of this section;</p> <p>(ii) Conduct compost analysis according to the requirements of Table 220-B. Compost testing frequency is based on volume of compost produced annually as required by subsection (4)(a)(x)(B) of this section; and</p> <p>(iii) Submit annual reports and results of composted material analysis to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</p>

((e)) ~~Composting operations managing the types and volumes of materials identified in Table 220-A must meet the following terms and conditions to maintain their exempt status:~~

((i))) (a) Comply with the performance standards of WAC 173-350-040;

((ii))) (b) Manage the operation to prevent the migration of agricultural pests identified by local horticultural pest and disease control boards, as applicable;

((iii))) (c) Control nuisance odors to prevent migration beyond property boundaries;

((iv))) (d) Manage the operation to prevent attraction of flies, rodents, and other vectors; and

((v))) (e) Allow the department or the jurisdictional health department to inspect the site at reasonable times.

((2)) **(3) Composting facilities - Permit requirements - Location** ((standards (permit requirements))). There are no specific location standards for composting facilities subject to this chapter; however, composting facilities must meet the ((requirements of other federal, state, or local laws and regulations that apply under)) performance standards of WAC 173-350-040((5)).

Note: When considering compost facility location, please review the U.S. Department of Transportation Federal Aviation Advisory Circular No. 150/5200-33B 2007.

((3))) **(4) Composting facilities - Permit requirements - Design** ((standards (permit requirements))). Composting facilities must be designed and constructed to meet the requirements of this subsection.

(a) Composting facilities must be designed and constructed such that:

(i) The facility can be operated to meet the performance standards ((requirements in)) of WAC 173-350-040; and

(ii) The facility can be operated to promote controlled, aerobic decomposition. This requirement is intended to ensure that compost facility designers take into account porosity, nutrient balance, pile oxygen, pile moisture, pile temperature, and retention time of composting when designing a facility. It is not intended to mandate forced aeration or any other specific composting technology.

(b) The owner or operator of a composting facility must prepare and provide to the jurisdictional health department engineering reports, engineering plans, and engineering specifications that address the design standards of this subsection. The engineering documents must be prepared by ((an)) a professional engineer ((licensed)) registered in the state of Washington, and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features of the facility including, but not limited to: Pad, impoundments, stormwater

management features, leachate management features, and aeration and emission control features as required by the permitting air authority where applicable. The engineering report must demonstrate that the proposed design will meet the performance standards of this chapter;

(ii) Scale drawings of the facility including the location and size of feedstock and composted material storage areas, compost processing areas, fixed equipment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility including, but not limited to, pads, stormwater management features, leachate management features, and aeration and emission management features as required by a permitting air authority where applicable; and

(iv) A construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility to ensure the facility is constructed in accordance with the approved design.

(c) When operations require public access, all-weather roads must be provided from the highway or roads to and within the compost facility and must be designed and maintained to prevent traffic congestion, traffic hazards, dust, and noise pollution.

(d) Compost facilities must manage stormwater and leachate to meet the standards of this section and of any and all federal, state, and local water and air quality permits.

(e) Composting facilities must minimize the production of leachate and runoff by designing stormwater management features such as run-on prevention systems, which may include covered areas (roofs), diversion swales, ditches, or other features designed to divert stormwater from areas of feedstock preparation, active composting, and curing.

(i) Composting facilities must manage any leachate generated at the facility by providing leachate management features. The leachate management features include, but are not limited to, leachate collection, conveyance, and storage structures, or treatment systems. Leachate must be collected from areas of feedstock storage and preparation, active composting, and curing, and be conveyed to a leachate storage structure or treatment system. Any discharges to ground that result in contaminants migrating to groundwater require a waste discharge permit under chapter 90.48 RCW, Water pollution control, prior to discharge. Discharges to ground that result in degradation of groundwater quality are prohibited under chapter 90.48 RCW, Water pollution control. Any discharge to sanitary sewer requires additional permitting by the local delegated authority or department;

(ii) Stormwater and leachate collection and conveyance structures must be designed based on the volume of water resulting from a twenty-five-year storm event ((as defined in WAC 173-350-100));

(iii) Leachate storage structures such as ponds or tanks must be of adequate capacity to store the normal maximum volume of leachate generated by the facility. The normal maximum volume will be established based on the following conditions:

(A) Facility design;

(B) Normal climatic precipitation and evaporation data for the location of the facility;

(C) Monthly leachate reuse or removal; and

(D) A factor of safety to accommodate variability of actual conditions.

(iv) Leachate holding ponds and tanks must be designed according to the following:

(A) Leachate ponds at registered dairies must meet Natural Resources Conservation Service standards for a waste storage facility in the 2001 (revised June 2011) *Washington Field Office Technical Guide* (Code 313).

(B) Leachate ponds at composting facilities other than registered dairies must be designed to meet the following requirements:

(I) Have a liner consisting of a minimum 30-mil thickness geomembrane on a subgrade that provides sufficient bearing capacity to support the liner and the contents of the pond. A liner constructed with a high density polyethylene geomembrane must be at least 60-mil thick to allow for proper welding. The jurisdictional health department may approve the use of an alternative liner design if the owner or operator can demonstrate during the permitting process that the proposed design will prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection;

(II) Have dikes and slopes designed to maintain their structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action, overfilling, or precipitation;

(III) Have freeboard (distance between the liquid level and the top of the pond) equal to or greater than eighteen inches to avoid overtopping from wave action, overfilling, or precipitation. The jurisdictional health department may reduce the freeboard requirement ((provided that)) if other engineering controls are in place that prevent overtopping. These engineering controls must be specified during the permitting process; and

(IV) Leachate ponds that have the potential to impound more than ten-acre feet (three million two hundred fifty-nine thousand gallons) of liquid measured from the top of the dike and which would be released by a failure of the containment dike must be reviewed and approved by the dam safety section of the department.

(C) Tanks used to store leachate must meet design standards in WAC 173-350-330 ((3)) (4)(b).

(f) Incoming feedstocks, active composting, and curing materials must be placed on pads that prevent contamination of soil or groundwater underlying or adjacent to the pads. Pads must meet the following requirements:

(i) All pads must be curbed or graded in a manner to prevent ponding, to control run-on and runoff, and to separately collect and convey all stormwater and leachate to separate storage or holding systems. Stormwater that is combined with leachate must be managed as leachate in accordance with this section;

(ii) All pads must be constructed on subgrades that provide sufficient bearing capacity to support the weight of the pad, the materials placed on them, and the equipment used in handling the materials;

(iii) The entire surface area of the pad must be designed to maintain its structural and hydraulic integrity against loads resulting from any machinery used for feedstock and compost handling activities, and from surface wear or damage caused by feedstock and compost handling, or by active composting at the facility;

(iv) The pad may be constructed of materials such as concrete (with sealed joints), asphaltic concrete, or soil cement that prevents subsurface soil and groundwater contamination; and

(v) The jurisdictional health department may allow pads for compost facilities to be designed and constructed with materials other than those listed in (f)(iv) of this subsection, provided the applicant demonstrates in the engineering report to the jurisdictional health department's and the department's satisfaction that the alternative pad provides sufficient protection to meet the performance standards of this section and of WAC 173-350-040.

((4)) (5) Composting facilities - ((*Operating standards (permit requirements*))) Permit requirements - Documentation. Within thirty days of completing construction, the owner or operator of a composting facility must provide copies of the construction record drawings for engineered features at the facility and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities must not begin operating until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report, plans, and specifications and has approved the construction documentation in writing. The jurisdictional health department has thirty days after receiving complete construction records to provide its determination.

(6) Composting facilities - Permit requirements - Operating. The owner or operator of a composting facility must:

(a) Operate the facility to:

(i) Control air contaminants such as dust and nuisance odors to prevent other contaminants from migrating beyond property boundaries in accordance with WAC 173-350-040((4)) (3);

(ii) Prevent the attraction of vectors;

(iii) Prevent the migration of agricultural pests identified by local pest and disease control boards, as applicable;

(iv) Ensure access to the facility is restricted when the facility is closed;

(v) Ensure that only feedstocks identified in the approved plan of operation are accepted at the facility;

(vi) Ensure the facility operates under the supervision and control of a properly trained individual(s) during all hours of operation:

(A) Facility supervisors responsible for daily operation must receive training, or be able to document prior training, in the basics of composting within the first year of supervising the facility. Training must consist of classroom and hands-on course work and conclude with a certificate of completion that must be kept on-site at all times. Appropriate compost training can be obtained through organizations such as the Washington organic recycling council, the Solid Waste

Association of North America, the U.S. Composting Council, or other training as approved by the jurisdictional health department((-)); and

(B) Ensure facility employees are trained in appropriate facility operations, maintenance procedures, and safety and emergency procedures according to individual job duties and according to an approved plan of operation. A trained supervisor may provide appropriate training to employees responsible for daily operations.

(vii) Implement and document pathogen reduction activities. Documentation must include compost pile temperatures representative of the composting materials, and notation of turnings as appropriate, based on the composting method used. Pathogen reduction activities must at a minimum include the following:

(A) In vessel composting - The temperature of the active compost pile must be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for three consecutive days (seventy-two hours); or

(B) Aerated static pile must have a cover such as a synthetic material or a layer of finished compost to ensure that pathogen reduction temperatures are reached and vectors are controlled((-)). The temperature of the active compost pile must be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for three consecutive days (seventy-two hours); or

(C) Windrow composting - The temperature of the active compost pile must be maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher for fifteen days or longer. During the period when the compost is maintained at fifty-five degrees Celsius (one hundred thirty-one degrees Fahrenheit) or higher, there must be a minimum of five turnings of the windrow; or

(D) An alternative method of composting that can be demonstrated by the owner or operator to achieve an equivalent reduction of human pathogens.

(viii) Monitor the composting process according to the plan of operation submitted during the permitting process. Monitoring must include inspection of incoming loads of feedstocks and pathogen reduction requirements of (a)(vii) of this subsection;

(ix) Collect composted material samples for analysis that are representative of the pile. Use a sampling method such as described in the U.S. Composting Council 2002 Test Methods for the Examination of Composting and Compost, Method 02.01-A through E; and

(x) Analyze composted material for metals and other testing parameters listed in Table 220-B.

(A) The jurisdictional health department may require additional tests for metals and contaminants;

(B) Testing frequency is based on amount of composted material produced. A representative sample of composted material must be tested for every 5,000 cubic yards produced, or every three hundred sixty-five days, whichever is more frequent. The jurisdictional health department may modify the frequency of testing based on historical data for a particular facility;

(C) Composted material meeting the conditions of subsection ((4)) (6)(a)(x) and (g) of this section can be stored off of a pad.

Table 220-B
Testing Parameters

Metals and other testing parameters	Limit (mg/kg dry weight), unless otherwise specified
Arsenic	≤ 20 ppm
Cadmium	≤ 10 ppm
Copper	≤ 750 ppm
Lead	≤ 150 ppm
Mercury	≤ 8 ppm
Molybdenum	≤ 9 ppm
Nickel	≤ 210 ppm
Selenium	≤ 18 ppm
Zinc	≤ 1400 ppm
Physical contaminants ¹	≤ 1 percent by weight total, not to exceed .25 percent film plastic by weight
Sharps	0
pH	5 - 10 (range)
Biological stability ²	Moderately unstable to very stable
Fecal coliform ³	< 1,000 Most Probable Number per gram of total solids (dry weight)
OR	
Salmonella	< 3 Most Probable Number per 4 grams of total solids (dry weight)

¹A label or information sheet must be provided with compost that exceeds .1((%)) percent by weight of film plastic. See WAC 173-350-220 ((4)) (6)(f)(iii)(D)(I).

²Tests for biological stability must be done as outlined in the United States Composting Council Test Methods for the Examination of Composting and Compost unless otherwise approved by the jurisdictional health department.

³Test for either fecal coliform or salmonella.

Note: Biosolids composters regulated under this chapter must communicate with the jurisdictional health department to determine if different testing parameters and testing frequencies are required.

(b) Inspect the facility to prevent malfunctions and deterioration, operator errors and discharges that may cause or lead to the release of waste to the environment or a threat to human health. Inspections must be conducted at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process.

(c) For compost facilities with leachate holding ponds, conduct regular liner inspections at least once every five years, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. The frequency of inspections must be specified in the operations plan and must be based on the type of liner, expected

service life of the material, and the site-specific service conditions:

(i) Inspect the liner for degradation and ruptures of the liner material and for failure of any seams or joints in the liner material. If the maximum wetted extent of the liner geomembrane cannot be directly inspected visually, then the liner must be tested for leaks by electrical leak detection survey methods. If leaks, degradation, or ruptures of the liner material are detected, the liner must be repaired; and

(ii) The jurisdictional health department must be given sufficient notice and have the opportunity to be present during liner inspections. An inspection record must be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least five years from the date of inspection. Inspection records must be available to the jurisdictional health department upon request.

(d) Maintain operating records of the following:

(i) Daily temperatures representative of compost piles;
(ii) Additional process monitoring data as prescribed in the plan of operation;

(iii) Results of analyses for composted materials as required in (a)(x) of this subsection and Table 220-B; and

(iv) Facility inspection reports must be maintained in the operating record. Significant deviations from the plan of operation must be noted in the operating record. Records must be kept for a minimum of five years and must be available upon request by the jurisdictional health department.

(e) Prepare and submit ((a copy of)) an annual report to the jurisdictional health department and the department by April 1st of each calendar year on forms provided by the department. The annual report must detail the facility's activities during the previous calendar year and must include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of feedstocks received and compost produced, in cubic yards or tons;

(iv) Annual quantity of composted material sold or distributed, in cubic yards or tons;

(v) Annual summary of laboratory analysis of composted material; and

(vi) Any additional information required by the jurisdictional health department as a condition of the permit.

(f) Develop, keep, and follow a plan of operation approved as part of the permitting process. The plan of operation must convey to site personnel the concept of operation intended by the designer. The plan of operation must be kept on-site and be available for inspection at the request of the jurisdictional health department. If necessary, the plan must be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) List of feedstocks to be composted, including a general description of the source of feedstocks. Feedstocks must be approved by the department or jurisdictional health department;

(ii) A plan to control air contaminants such as dust and nuisance odors to prevent contaminants from migrating beyond property boundaries in accordance with WAC 173-350-040((4)) (3), including:

(A) A description of how staff will document and respond to nuisance odor complaints should they arise. The plan must include date and time of complaints, weather conditions, and operations at the facility at the time of the complaint, and a summary of actions taken;

(B) A description of facility and operational features to prevent nuisance odors beyond the facility's property boundary, as determined by the jurisdictional health department, the department, or the air authority. The description must address the receiving, composting, curing, and storage areas of the facility;

(C) A description of facility maintenance activities that encompass nuisance odor prevention and control, such as acquiring critical odor control backup equipment in the event of a breakdown, a schedule for purging aeration lines and changing biofilter media as appropriate, and a schedule for cleaning leachate ponds or leachate storage tanks as appropriate; and

(D) A description of how feedstocks with high moisture or the potential for high odors will be managed to reduce nuisance odors upon receipt, and through the composting process.

(iii) A description of how wastes and organic materials including incoming feedstocks, composting, curing, and composted materials are to be handled on-site during the facility's active life, including:

(A) Maximum site capacity in cubic yards for all materials on-site at any one time. The jurisdictional health department may require cumulative capacity for materials or separate capacities for incoming feedstocks, composting, curing, and composted materials, or any combination;

(B) ((Throughput)) Processing capacity in tons or cubic yards of solid waste feedstocks processed in a given amount of time. The jurisdictional health department may require monthly or annual ((throughput)) processing capacity;

(C) Procedures and criteria for ensuring that only the feedstocks described will be accepted. This includes a plan for rejecting feedstocks contaminated with greater than five percent physical contaminants by volume, or a plan to accept and separate contaminated loads from noncontaminated loads, and reduce physical contaminants to an acceptable level prior to composting;

(D) Procedure to reduce physical contaminants in composted material to meet testing parameters in Table 220-B. Grinding to reduce the size of physical contaminants does not meet the requirements of this section;

(I) Compost facilities must provide a label or information sheet to purchasers of compost that exceeds .1((%)) percent film plastic by weight but does not exceed .25((%)) percent film plastic by weight. The label or information sheet must include the statement in subsection (4)(f)(iii)(D)(II) of this section, or equivalent language approved by jurisdictional health department or the department.

(II) "This compost does not meet Department of Ecology standards for film plastic content for unrestricted use. This compost may only be used in locations where a means of removing or containing the film plastic on-site is put in place promptly after use. Acceptable controls include removal from the site, incorporation, planting, covering with soil or another media, or containment in a compost sock or similar

device. This product may not be used adjacent to regulated waters of the state (e.g., wetlands, streams, lakes) or in environmentally sensitive areas."

(E) Procedures for handling unacceptable wastes;

(F) A discussion on types and amounts of feedstocks including basic calculations showing that the facility will be able to achieve an acceptable mix of materials for efficient decomposition;

(G) Material flow plan describing general procedures to manage all materials on-site from incoming feedstock to composted material;

(H) A description of equipment, including equipment to add water to compost as necessary;

(I) Compost process monitoring plan, including compost mix (carbon to nitrogen ratio), temperature, moisture, and porosity;

(J) Pathogen reduction plan;

(K) Representative sampling and analysis plan for the composted material such as described in the 2002 U.S. Composting Council Test Methods for the Examination of Composting and Compost Method 02.01-A through E;

(L) Leachate management plan, including monthly precipitation and evaporation data, and if applicable, monthly leachate reuse or removal; and

(M) Stormwater management plan.

(iv) A description of how equipment, structures, and other systems are to be inspected and maintained, including the frequency of inspections and inspection logs;

(v) A description of how facility staff will receive appropriate training in the operation of the facility, including how they will be trained to identify nuisance odors and how to correct them;

(vi) A community relations plan describing how the owner or operator will document and manage complaints;

(vii) Safety, fire, and emergency plans;

(viii) Forms for recordkeeping of daily volumes or weights of incoming feedstocks by type, outgoing composted material, and process monitoring results; and

(ix) Other details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(g) Manage composted material piles that have met the testing parameters in Table 220-B in the following manner:

(i) Comply with the performance standards of WAC 173-350-040; ((and))

(ii) Minimize and control runoff from composted material piles through the use of covers, diversion swales, berms, ditches, or other features designed to prevent runoff and divert stormwater from compost material; and

(iii) Minimize odor by maintaining porosity of composted material piles and managing moisture levels in composted material piles, not to exceed sixty percent moisture.

((5))) (7) Composting facilities - Permit requirements - Groundwater monitoring ((requirements (permit requirements))). There are no specific groundwater monitoring requirements for composting facilities subject to this chapter; however, composting facilities must meet the ((requirements of other federal, state, or local laws and regulations that apply under)) performance standards of WAC 173-350-040((5))).

((6)) (8) Composting facilities - Permit requirements - Closure ((*requirements (permit requirements)*)).

The owner or operator of a composting facility must:

(a) Notify the jurisdictional health department sixty days in advance of closure. At closure, the facility owner or operator is financially responsible for the removal of all solid waste, including but not limited to, raw or partially composted feedstocks, composted material and leachate from the facility. The materials must be sent to another facility that complies with the applicable regulations for handling the waste(()); and

(b) Develop, keep, and follow a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan must include methods of removing solid waste, leachate, and other organic materials from the facility. For planning purposes, assume that the facility is at full, permitted site capacity at the time of closure.

((7)) (9) Composting facilities - Permit requirements - Financial assurance ((*requirements (permit requirements)*)). There are no specific financial assurance requirements for composting facilities subject to this chapter; however, composting facilities must meet the ((*requirements of other federal, state, or local laws and regulations that apply under*))) performance standards of WAC 173-350-040((5))).

((8)) (10) Composting facilities - Permit application contents ((*permit requirements*)). The owner or operator of a composting facility must obtain a solid waste permit from the jurisdictional health department. All applications for permits must be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit must contain:

(a) Engineering reports, plans, and specifications that address the design standards of subsections ((3)) (4) and (5) of this section;

(b) A plan of operation meeting the requirements of subsection ((4)) (6) of this section; and

(c) A closure plan meeting the requirements of subsection ((6)) (8) of this section.

((9) Composting facilities - Construction records (permit requirements)). Within thirty days of completing construction, the owner or operator of a composting facility must provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities must not begin operating until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report, plans, and specifications and has approved the construction documentation in writing. The jurisdictional health department has thirty days after receiving complete construction records to provide its determination.

((10)) (11) Composting facilities - Designation of composted materials ((*permit requirements*)). When used on-site or distributed off-site, composted materials meeting the testing parameters of Table 220-B are no longer subject to this chapter. Composted materials that do not meet these requirements are solid waste and subject to management under chapter 70.95 RCW, Solid waste management—Reduction and recycling.

AMENDATORY SECTION (Amending WSR 13-08-016, filed 3/25/13, effective 4/25/13)

WAC 173-350-225 Other organic material handling activities. (1) In accordance with RCW 70.95.305, activities identified in this section are exempt from solid waste handling permitting when in compliance with the terms and conditions of this section. Any person engaged in the activities in this section that does not comply with the terms and conditions of this section is required to obtain a permit from the jurisdictional health department in accordance with the requirements of WAC 173-350-490. In addition, violations of the terms and conditions of this ((*subsection*)) section may be subject to the ((*penalty*)) enforcement provisions of RCW 70.95.315.

Table 225-A

Terms and Conditions for Solid Waste Permit Exemptions

	Organic Materials	Volume	Specific Requirements for Activity or Operation
(1)	All organic feedstocks	No more than 5,000 gallons or 25 cubic yards of material on-site at any one time.	No notification, reporting or testing requirements.
(2)	All organic feedstocks	Greater than 25 but no more than 250 cubic yards of material generated on- or off-site, or up to 1,000 cubic yards of material generated on-site at any one time.	Exemption applies to vermicomposting only. Vermicomposting facilities managing more than 25 cubic yards of any organic material must meet the following conditions: (a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department.

	Organic Materials	Volume	Specific Requirements for Activity or Operation
			<p>Notice of intent must be submitted on a form provided by the department.</p> <p>(b) Facilities that distribute material off-site must submit annual reports to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</p>
(3)	Preconsumer vegetative food waste Yard debris Crop residues Manure and bedding Bulking agents	Greater than 25 but no more than 1,000 cubic yards of material on-site at any one time.	<p>Exemption applies to vermicomposting only. Vermicomposting facilities managing more than 25 cubic yards of only the listed feedstocks must meet the following conditions:</p> <p>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department.</p> <p>(b) Facilities that distribute material off-site must submit annual reports to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</p>
(4)	All organic feedstocks	Greater than 5,000 but no more than 50,000 gallons of liquid or semi-solid material on-site at any one time; or Greater than 25 but no more than 250 cubic yards of nonliquid material on-site at any one time.	<p>Other conversion technologies managing more than 5,000 gallons liquid or semi-solid or 25 cubic yards of nonliquid material must meet the following conditions:</p> <p>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notification must be submitted on a form provided by the department.</p> <p>(b) Facilities that distribute material off-site must meet the following conditions:</p> <p>(i) Sample and test material every 1 million gallons or 5,000 cubic yards or once per year, whichever is more frequent, to demonstrate it meets compost quality standards of WAC 173-350-220(4) (Table 220-B) before it is distributed for off-site use; or</p> <p>(ii) Ensure material meets the conditions for a commercial fertilizer as applicable in chapter 15.54 RCW, <u>Fertilizers, minerals, and limes</u>; or</p> <p>(iii) Send material to a compliant permitted or conditionally exempt compost facility for further treatment to meet compost quality standards; or</p> <p>(iv) Land apply material in accordance with WAC 173-350-230, Land application; or</p>

	Organic Materials	Volume	Specific Requirements for Activity or Operation
			<p>(v) Use material in accordance with WAC 173-350-200, Beneficial use permit exemption; or</p> <p>(vi) Process or manage material in an alternate manner approved by the department or the jurisdictional health department.</p> <p>(c) Submit annual reports to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</p>

(2) Facilities managing under the rules and volumes of material described in Table 225-A above are conditionally exempt facilities when they meet the following conditions:

(a) Comply with the performance standards((5)) of WAC 173-350-040;

(b) Allow inspections by the department and/or jurisdictional health department at reasonable times to verify compliance with the conditions specified in this subsection;

(c) Manage the operation to prevent attraction of flies, rodents, and other vectors;

(d) Control nuisance odors to prevent migration beyond property boundaries; and

(e) Manage the operation to prevent the migration of agricultural pests identified by local horticultural pest and disease control boards, as applicable.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-230 Land application. (1) Land application - Applicability. ((This section applies))

(a) These standards apply to solid waste that is beneficially used on the land through application at an agronomic rate, as a soil amendment, or for ((its agronomic value, or soil-amending capability, including)) land reclamation. ((This section does))

(b) These standards do not apply to:

((a) The application of commercial fertilizers registered with the Washington state department of agriculture as provided in RCW 15.54.325, and which are applied in accordance with the standards established in RCW 15.54.800(3);

((b) Biosolids regulated under chapter 173-308 WAC, Biosolids management;

((c) Composted materials no longer considered solid waste under WAC 173-350-220(10);

((d) Dangerous waste regulated under chapter 173-303 WAC Dangerous waste regulations;

((e) Waste derived soil amendments)) (i) Land application of manure and bedding, crop residue, and on-farm vegetative waste at agronomic rates as excluded under WAC 173-350-020;

((ii) Land application of solid waste exempted from permitting under WAC 173-350-200; ((and

((f)))

((iii) Solid waste used to improve the engineering characteristics of soil;

(iv) Land application of composted materials as defined in WAC 173-350-100;

(v) Land application of vermicompost and organic materials meeting the terms and conditions for permit exemption of WAC 173-350-225; and

(vi) Land application of digestate meeting the terms and conditions for permit exemption or permitting requirements of WAC 173-350-250.

(2) **Land application - Permit exemptions.** There are no permit exemptions for land application.

(3) **Land application - Permit requirements - Location** ((standards)). There are no specific location standards for land application of solid waste subject to this chapter; however, land application sites must meet the ((requirements provided under)) performance standards of WAC 173-350-040(((5))).

((3)) (4) **Land application - Permit requirements - Design** ((standards)). There are no specific design standards for land application of solid waste subject to this chapter; however, land application sites must meet the ((requirements provided under)) performance standards of WAC 173-350-040(((5))).

((4)) (5) **Land application - ((Operating standards)) Permit requirements - Documentation.** There are no specific engineering or construction documentation requirements; however, land application sites must meet the performance standards of WAC 173-350-040.

(6) **Land application - Permit requirements - Operation.** The owner or operator of a land application site ((shall)) must:

(a) Operate the site in compliance with the performance standards of WAC 173-350-040(. The jurisdictional health department shall determine the need for environmental monitoring to ensure compliance with the performance standards)) and this section. In addition the owner or operator ((shall):

(a) Operate the site to ensure that)) must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan of operation must be available for inspection at the request of the jurisdictional health department. If necessary, the plan may be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of solid wastes to be land applied;

(ii) A description of the processes by which the solid waste is generated and treated;

(iii) A description of the characteristics of the waste that provide agronomic, soil-amending, or reclamation capability;

(iv) A waste monitoring plan that provides representative characterization of the waste over time;

(v) A description of how the owner or operator will ensure that land application occurs at a predictable application rate determined as follows:

(A) For agricultural applications, solid waste must be applied to the land at a rate that does not exceed the agronomic rate. The agronomic rate should be based on Washington State University cooperative extension service fertilizer guidelines or other appropriate resources accepted by the jurisdictional health department;

(B) For the purposes of land reclamation or other soil amending activities, the application rate may be designed, for example, to achieve a soil organic matter content or other soil physical characteristics to promote long-term soil productivity, with consideration of the carbon-to-nitrogen ratio to control nutrient leaching; and

(C) For liquid wastes, the application rate must also be based on soil permeability and infiltration rate.

(vi) A description of how the owner or operator will determine the application rate that accounts for the characteristics of the waste to be applied, characteristics of receiving site soils, irrigation practices, climate, and the crop to be grown;

(vii) A description of the process, system, and equipment that will be used to apply the waste that explains:

(A) How the equipment and system will be calibrated to deliver waste at the appropriate rate;

(B) Whether the waste will be allowed to remain on the surface of the land, tilled into the soil, or injected into the soil at the time of application;

(C) When the waste will be applied to the land relative to crop and livestock management practices; and

(D) Any restrictions on application related to climatic factors including typical precipitation, twenty-five-year storm events, temperature, wind, frozen soils, saturated soils, or seasonal high groundwater.

(viii) A description of how the waste will be managed at all points during storage and application to control attraction to vectors and to mitigate nuisance odor impacts (unless exempted under chapter 70.94 RCW, Washington Clean Air Act), including a description of how owners or operators will respond to complaints;

(ix) If the seasonal high groundwater is three feet or less below the surface, a management plan describing how groundwater will be protected;

(x) For waste stored in piles ((on)) at the land application site, a description of how the owner or operator will ensure that:

(A) Contamination of groundwater, surface water, air, and land during storage ((and in case of fire or flood)) is prevented;

(B) The potential for combustion within the pile ((and the potential for combustion from other sources)) is minimized;

(C) The duration of ((on-site waste)) storage of the entire pile is limited to one year and limited to the amount that will be applied to the site during a one-year period according to the plan of operation, or less if the jurisdictional health department believes it is necessary to prevent the contamination of groundwater, surface water, air ((and)), or land((; and

(D) The amount of material on site does not exceed the amount that could potentially be applied to the site during a one-year period in accordance with the plan of operations;

(ii) For storage of liquid waste or semisolid waste in surface impoundments or tanks, the requirements of WAC 173-350-330 are met;

(iii) Land application occurs at a predictable application rate determined as follows:

(A) For agricultural applications, solid waste shall be applied to the land at a rate that does not exceed the agronomic rate. The agronomic rate should be based on Washington State University cooperative extension service fertilizer guidelines or other appropriate guidance accepted by the jurisdictional health department;

(B) For the purposes of land reclamation or other soil amending activities, the application rate may be designed to achieve a soil organic matter content or other soil physical characteristic and promote long-term soil productivity, with consideration of the carbon to nitrogen ratio to control nutrient leaching; and

(C) For liquid wastes, the application rate shall also be based on soil permeability and infiltration rate.

((b))). Subsequent accumulation under the same conditions is allowed at the same location after the entire pile has been used; and

(D) For piles that will not meet conditions of (A) through (C) of this subsection, a demonstration that the owner or operator will meet the requirement of WAC 173-350-320.

(xi) For waste stored in piles somewhere other than the land application site, a description of how the owner or operator will meet the requirements of WAC 173-350-320;

(xii) For storage of liquid waste or semisolid waste in surface impoundments or tanks, a description of how the owner or operator will meet the requirements of WAC 173-350-330;

(xiii) A description of how the owner or operator will maintain ((daily)) operating records of the location where waste is applied, amount and type of waste applied ((to the land)), the crop planted, and ((any additional)) other nutrient inputs, including the form or computer printout used to record this information. Facility annual reports must be maintained in the operating record. Significant deviations from the plan of operation ((shall)) must be noted in the operating record. Records ((shall)) must be kept for a minimum of five years and ((shall)) be available upon request by the jurisdictional health department; and

((e))) (xiv) Other details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(b) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report ((shall)) must detail the land application activities during the

previous calendar year and ((shall)) must include the following information:

(i) ((Site)) Address or legal description of where waste was land applied;

(ii) Calendar year covered by the report;

(iii) Annual ((quantity)) quantities and types of waste ((received from each source)) managed;

(iv) For each crop grown: The acreage used, the amount, type and source of each waste applied, the crop, and any additional nutrient inputs to the land, such as manure, biosolids, or commercial fertilizer;

(v) Quantity and type of any waste remaining in storage as of December 31st of the reporting year;

(vi) Any additional waste characterization information required to be obtained as a condition of the permit, and a summary report of that data;

(vii) Any environmental monitoring data required to be obtained as a condition of the permit, and a summary report of that data; and

(viii) Any additional information required by the jurisdictional health department as a condition of the permit((;

(d) Develop, keep, and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

(i) A description of the types of solid wastes to be handled at the site;

(ii) A description of how wastes are to be handled on-site during the life of the site including:

(A) How wastes will be delivered to the site and meet any local agency notification requirements;

(B) A description of the process, system and equipment that will be used to apply the waste to the land that explains:

(I) How the equipment and system will be calibrated to deliver waste at the agronomic rate;

(II) Whether the waste will be allowed to remain on the surface of the land, will be tilled into the soil, or will be injected into the soil at the time of application;

(III) When the waste will be applied to the land relative to crop and livestock management practices; and

(IV) Any proposed restrictions on application related to climatic factors including typical precipitation, twenty-five-year storm events as defined in WAC 173-350-100, temperature, and wind, or site conditions including frozen soils and seasonal high groundwater;

(C) A description of how the waste will be managed at all points during storage and application to control attraction to disease vectors and to mitigate nuisance odor impacts;

(iii) A spill response plan including the names and phone numbers of all contacts to be notified in the event of a spill and how the spill will be cleaned up;

(iv) If the seasonal high groundwater is three feet or less below the surface, a management plan describing how groundwater will be protected;

(v) A waste monitoring plan providing analytical results representative of the waste being applied to the land, over

time, taking into account the rate of production of the waste, timing of delivery, and storage;

(vi) The forms used to record volumes, weights and waste application data;

(vii) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department).

((5)) (7) Land application - Permit requirements -

Groundwater monitoring ((requirements)). There are no specific groundwater monitoring requirements for land application sites subject to this chapter; however, land application sites must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5)).

((6)) (8) Land application - Permit requirements -

Closure ((requirements)). The owner or operator of all land application sites ((shall)) must notify the jurisdictional health department sixty days in advance of closure. All land application sites ((shall)) must be closed by applying all materials in storage in accordance with the permit, or by removing those materials to a facility that conforms to the applicable regulations for handling the waste.

((7)) (9) Land application - Permit requirements -

Financial assurance ((requirements)). There are no specific financial assurance requirements for land application sites subject to this chapter; however, land application sites must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5)).

((8)) (10) Land application - Permit application contents.

(a) The owner or operator of land application sites subject to this section ((shall)) must obtain a solid waste permit from the jurisdictional health department. All applications for permits ((shall)) must be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit ((shall)) must contain:

(i) Contact information, including name, contact person, mailing address, phone, fax, email for:

(A) Any person who generates waste that will be applied to the site;

(B) The person who is applying for a permit (the permit holder);

(C) The person who prepares the permit application; and

(D) The person who owns the site where the waste will be applied.

(ii) ((Statement of intended use. The permit application shall contain a clear explanation of the benefit to be obtained from land application of the material. Avoidance of disposal is not adequate justification for land application of solid waste.

(iii) An analysis of the waste which includes:

(A) A description of the material to be applied to the land;

(B) A description of the processes by which the material is generated and treated including all processed feedstocks;

(C) Any pseudonyms or trade names for the material;

(D) A discussion of the potential for the material to generate nuisance odors or to attract disease vectors, including any complaints regarding nuisance odors associated with this material;

((E))) An analysis of pollutant concentrations of the following reported on a dry weight basis:

- ((F)) (A) Total arsenic;
- ((H)) (B) Total barium;
- ((I)) (C) Total cadmium;
- ((V)) (D) Total chromium;
- ((V)) (E) Total copper;
- ((V)) (F) Total lead;
- ((VII)) (G) Total mercury;
- ((VIII)) (H) Total molybdenum;
- ((X)) (I) Total nickel;
- ((X)) (J) Total selenium;
- ((X)) (K) Total zinc.

((F)) (iii) An analysis of nutrients at a minimum to include ((total Kjeldahl)) organic nitrogen, ((total)) nitrate-nitrogen, ((total ammonia and)) ammonium-nitrogen, total phosphorus, and ((extractable)) total potassium, reported on a dry weight basis;

((G)) (iv) An analysis of physical/chemical parameters to include at a minimum: Total solids, ((total volatile solids,)) pH, ((electrical conductivity)) soluble salts, total organic carbon;

((H)) (v) A discussion of any pathogens known or suspected to be associated with this material, including those which can cause disease in plants, animals, or humans;

((I)) ~~The concentration of fecal coliform bacteria expressed as CFU or MPN per gram of dry solid material; and~~

((J)) (vi) Any additional analysis required by the jurisdictional health department. The jurisdictional health department may reduce the analytical requirements of this section. ~~Methods of analysis are to be determined by the jurisdictional health department.~~

((J)):

(vii) A comprehensive land application site characterization including:

(A) A description of current practices and a brief description of past practices on the ((application)) site((, including application of wastes, soil amendments, manures, biosolids, liming agents, and other fertilization practices, livestock usage, irrigation practices, and crop history. Also indicate whether any management plan has been prepared for the site such as a farm, forest, or nutrient management plan. Discuss any potential changes to management practices at the site));

(B) A description of the climate at the application site including typical precipitation, precipitation of a twenty-five-year storm, as defined in WAC 173-350-100, temperatures, and seasonal variations);

((E)) (B) A brief discussion of the potential for runoff and runoff, and typical depths to seasonal high groundwater. Runoff discussion must include direction of site drainage and identification of any surface water within one-quarter mile of the site;

((D)) (C) An analysis of soil nutrients including ((residual nitrate)) plant available nitrogen in the upper ((two)) three feet of soil in one foot increments;

((E)) (D) A site map showing property boundaries ((and ownership of)), adjacent properties and adjacent property uses, with the application areas clearly shown, and with

the latitude and longitude of the approximate center of each land application site;

((F)) (E) A topographic relief map of the site extending one-quarter mile beyond the site boundaries at a scale of 1:24,000 or other scale if specified by the jurisdictional health department;

((G)) (F) Show the following information on either of the maps provided or on additional maps ((if needed)):

- (I) Location of the site by street address, if applicable;
- (II) The zoning classification of the site;
- (III) The means of access to the site;
- (IV) The size of the site in acres, and if applicable, the size of individual fields, units, and application areas;

(V) The location and size of any areas which will be used to store the waste;

(VI) ((Adjacent properties, uses, and their zoning classifications))

((VII)) Delineation of wetlands on the site;

((X)) (VII) Any portion of the site that falls within a well-head protection area;

((X)) (VII) Any seasonal or perennial surface water ((bodies)) located on the site or perennial surface water bodies within one-quarter mile of the site;

((X)) (VII) The location of all wells within one-quarter mile of the boundary of the application area ((which are listed in public records or otherwise known,)) whether for domestic, irrigation, or other purposes;

((X)) (IX) Any setback or buffer to surface water, property boundaries, or other feature, if proposed;

((X)) (X) The location of any critical areas or habitat identified under the Endangered Species Act, local growth management plans, habitat conservation plans, conservation reserve program, or local shoreline master program((,));

((X)) (XI) A copy of the Natural Resources Conservation Service soil survey map from the most recent edition of the soil survey that includes the distribution of soil types with an overlay of the site boundaries); and

((X)) (XI) A description of the soil type(s), textural classes, and soil depths present on the site as determined by the most recent edition of the Natural Resources Conservation Service soil survey or from actual field measurements.

((V)) (viii) A plan of operation meeting the requirements of subsection ((4)) (6) of this section.

(b) Two or more areas of land under the same ownership or operational control which are not contiguous may be considered as one site for the purposes of permitting, if in the opinion of the jurisdictional health department the areas are sufficiently proximate and management practices are sufficiently similar that viewing them as one proposal would expedite the permit process without compromising the public interest. A jurisdictional health department may also require separate permits for a contiguous area of land if it finds that the character of a proposed site or management practices across the site are sufficiently different that the permit process and public interest would be best served by a more focused approach.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-240 Energy recovery and incineration facilities. (1) **Energy recovery and incineration facilities - Applicability.**

(a) These standards apply to all facilities designed to burn more than twelve tons of solid waste ((~~or refuse-derived fuel~~)) per day.

(b) These standards do not apply to:

(i) Facilities that burn gases ((~~recovered at~~) from a landfill or solid waste digester((s.

(e))));

(ii) Facilities that burn materials that are no longer solid waste as determined by WAC 173-350-021.

(2) **Energy recovery and incineration facilities - Permit exemptions.** In accordance with RCW 70.95.305, the combustion of ((wood waste, wood derived fuel, and wastewater treatment sludge generated from the manufacturing of wood pulp or paper, for the purpose of energy recovery is subject solely to the requirements of (d)(i) through (iv) of this subsection and is exempt from solid waste handling permitting. An owner or operator that does not comply with the terms and conditions of (d)(i) through (iv) of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with all other applicable requirements of this chapter)) waste materials in compliance with the terms and conditions of Table 240-A is exempt from the requirement to obtain a solid waste handling permit from the jurisdictional health department. If a facility does not operate in compliance with the terms and conditions established for an exemption under this subsection, the facility may be subject to the permitting requirements for solid waste handling under this chapter. In addition, violations of the terms and conditions of ((d)(i) through (iv) of)) this subsection may be subject to the ((penalty)) enforcement provisions of RCW 70.95.315.

((d)) Owners and operators of all categorically exempt energy recovery facilities shall:

(i) Comply with the performance standards of WAC 173-350-040;

(ii) Ensure that only fuels approved in writing by the agency with jurisdiction over the facility for air quality regulation are combusted;

(iii) Allow department and jurisdictional health department representatives to inspect the facility at reasonable times for the purpose of determining compliance with this chapter; and

(iv) Ensure that wastewater treatment sludge generated from the manufacturing of wood pulp or paper is combusted only in energy recovery units at the facility from which it originates.

((2)))

Table 240-A

Terms and Conditions for Solid Waste Permit Exemption

	Waste Materials	Specific Requirements for Activity or Operation
(1)	<u>Wood waste</u> <u>Wood derived fuel</u> <u>Wastewater treatment sludge generated from the manufacturing of wood pulp or paper</u>	(a) Meet the performance standards of WAC 173-350-040; (b) Ensure that only materials approved in writing by the agency with jurisdiction over the facility for air quality regulation are combusted; (c) Allow department and jurisdictional health department representatives to inspect the facility at reasonable times for the purpose of determining compliance with this chapter; and (d) Ensure that wastewater treatment sludge generated from the manufacturing of wood pulp or paper is combusted only in energy recovery units at the facility from which it originates.

(3) **Energy recovery and incineration facilities - Permit requirements - Location ((standards)).** There are no specific location standards for energy recovery or incineration facilities subject to this chapter; however, energy recovery and incineration facilities must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5))).

((3))) (4) **Energy recovery and incineration facilities - Permit requirements - Design ((standards).** There are no specific design standards for energy recovery and incineration facilities ((subject to this chapter; however, energy recovery and incineration facilities must meet the requirements provided under)) must be designed so that the facility can be operated to meet the performance standards of WAC 173-350-040((5))). The owner or operator of an energy recovery or incineration facility must prepare engineering reports/plans and specifications to address the following:

(a) The design of the storage and handling units for incoming waste as well as fly ash, bottom ash, and any other wastes produced by air or water pollution controls; and

(b) The design of the incinerator or thermal reactor, including charging or feeding systems, combustion air sys-

tems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design must also be included.

(5) Energy recovery and incineration facilities - Permit requirements - Documentation.

(a) The owner or operator must submit facility drawings and construction documents for, at a minimum, any elements described in subsection (4) of this section to the jurisdictional health department for review and approval. The facility drawings and construction documents must be prepared by a professional engineer registered in the state of Washington and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features. The engineering report must demonstrate that the proposed design will meet the performance standards of WAC 173-350-040;

(ii) Scale drawing of the facility including the location and size of waste handling areas, fixed equipment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility as applicable; and

(iv) For new construction, a construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility, to ensure the facility is constructed in accordance with the approved design.

(b) The owner or operator must provide copies of the construction record drawings for engineered features at the facility and a report documenting facility construction, including the results of observations and any testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. The owner or operator must not commence operation in a newly constructed portion of the facility until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

((4)) (6) Energy recovery and incineration facilities - Permit requirements - Operating ((standards)). The owner or operator of an energy recovery or incineration facility ((shall)) must:

(a) Operate the ((facility to-

(())) site in compliance with the performance standards of WAC 173-350-040 and this section. In addition, the owner or operator must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan of operation must be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of waste materials to be handled at the facility;

(ii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;

(iii) A description of how waste materials are to be handled on-site, including maximum site capacity, methods of adding or removing waste materials from the facility and equipment used;

(iv) A description of how the owner or operator will ensure that the facility is operated in a way to:

(A) Control litter, dust and nuisance odors;

(B) Control rodents, insects, and other vectors;

(C) Confine solid wastes prior to and after processing to specifically designed piles, surface impoundments, tanks or containers meeting the applicable standards of this chapter. Storage of wastes other than in the specifically designed storage compartments is prohibited. Equipment and space ((shall)) must be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as required to maintain the plant in a sanitary and clean condition;

((4))) (D) Manage solid wastes on-site during the facility's active life, including alternative storage, and/or disposal plans for all situations that would result in overfilling of the storage facility;

(E) Handle solid wastes, including combustion or other residues, in a manner that complies with this chapter; and

((4))) (F) Provide recyclable material collection at all facilities that accept municipal solid waste from the general public, self-haul residential, or commercial waste generators((; and

(iv) Ensure that dangerous waste is not disposed, treated, stored or otherwise handled, unless the requirements of chapter 173-303 WAC, Dangerous waste regulations, are met).

((4))) (v) Inspect the facility to prevent malfunctions and deterioration, operator errors and discharges that may lead to the release of wastes to the environment or cause a threat to human health. Inspections must address how equipment, structures and other systems, including leachate collection and gas collection equipment, are to be inspected and maintained. The owner or operator ((shall)) must conduct these inspections as needed, but at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. Inspections must be recorded on an inspection form to be included in the plan of operation.

((4))) (vi) A description of how operators will maintain ((daily)) operating records on the amounts (weights or volume) and types of waste((s)) received and removed from the facility, and number of vehicles delivering waste to the facility, including the form or computer printout used to record this information. Facility annual reports must be maintained in the operating record. Facility inspection reports ((shall)) must be maintained in the operating record((. Significant)), including at least the date of inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. The operator must notify the jurisdictional health department prior to any significant deviation from the plan of operation, and deviations ((from the plan of operation shall also)) must be noted on the operating record. Records ((shall)) must be ((maintained)) kept for a minimum of five years and ((shall)) must be available upon request by the jurisdictional health department;

(vii) Safety, fire and emergency plans, including:

- (A) Actions to take if there is a fire or explosion;
- (B) Actions to take if leaks are detected;
- (C) Remedial action programs to be implemented in case of a release of hazardous substances to the environment; and
- (D) Actions to take for other releases (e.g., failure of run-off containment system).

(viii) Other such details to demonstrate that the facility will be operated in accordance with this chapter and as required by the jurisdictional health department.

~~((d))~~ ~~(b)~~ Prepare and submit ~~((a copy of))~~ an annual report to the jurisdictional health department and the department by April 1st of each year on forms supplied by the department. The annual report ~~((shall))~~ must detail the facility's activities during the previous calendar year and ~~((shall))~~ must include ~~((the following information))~~:

- (i) Name and address of the facility;
- (ii) Calendar year covered by the report;
- (iii) Annual ~~((quantity of each type of solid))~~ quantities and types of waste received and incinerated, in tons if available;
- (iv) Annual quantity, type and destination of ~~((solid))~~ waste bypassed, in tons;
- (v) Annual quantity of ash disposed and disposal location, in tons; and
- (vi) Any additional information required by the jurisdictional health department as a condition of the permit.

~~((e)) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:~~

- ~~(i) A description of the types of solid wastes to be handled at the facility;~~
- ~~(ii) How solid wastes are to be handled on-site during the facility's active life, including alternative storage, and/or disposal plans for all situations that would result in overfilling of the storage facility;~~
- ~~(iii) A description of how equipment, structures and other systems, including leachate collection and gas collection equipment, are to be inspected and maintained, including the frequency of inspection and inspection logs;~~
- ~~(iv) Safety, fire and emergency plans including:~~
- ~~(A) Actions to take if there is a fire or explosion;~~
- ~~(B) Actions to take if leaks are detected;~~
- ~~(C) Remedial action programs to be implemented in case of a release of hazardous substances to the environment;~~
- ~~(D) Actions to take for other releases (e.g., failure of run-off containment system);~~
- ~~(v) Forms used to record volumes or weights;~~
- ~~(vi) Other such details to demonstrate that the facility will be operated in accordance with this chapter and as required by the jurisdictional health department.~~

~~((g))~~ ~~(7) Energy recovery and incineration facilities - Permit requirements - Groundwater monitoring~~ ~~((requirements))~~. There are no specific groundwater monitor-

ing requirements for energy recovery and incineration facilities subject to this chapter; however, energy recovery and incineration facilities must meet the ~~((requirements provided under))~~ performance standards of WAC 173-350-040~~((5))~~.

~~((f))~~ ~~(8) Energy recovery and incineration facilities - Permit requirements - Closure~~ ~~((requirements))~~. The owner or operator of an energy recovery or incineration facility ~~((shall))~~ must develop, keep, and follow a closure plan that includes:

~~(a) ((Notify)) Notification to the jurisdictional health department one hundred eighty days in advance of closure~~((At the time of closure all solid waste shall be removed to a facility that conforms with the applicable regulations for handling the waste.~~~~

~~(b) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the methods of removing waste.~~

~~(7) Energy recovery and incineration facilities - Environmental impact statement required. In accordance with RCW 70.95.700, no solid waste energy recovery or incineration facility shall be operated prior to the completion of an environmental impact statement containing the considerations required under RCW 43.21C.030 (2)(e) and prepared pursuant to the procedures of chapter 43.21C RCW, State Environmental Policy Act.~~

~~((g))~~;

~~(b) Removal of all waste material to a facility that meets all applicable regulations for handling the waste, or combustion of all remaining waste prior to closure; and~~

~~(c) Methods of removing waste material.~~

~~(9) Energy recovery and incineration facilities - Permit requirements - Financial assurance~~ ~~((requirements))~~.

There are no specific financial assurance requirements for energy recovery facilities and incineration facilities subject to this chapter; however, energy recovery and incineration facilities must meet ~~((the requirements provided under))~~ performance standards of WAC 173-350-040~~((5))~~.

~~((g))~~ ~~(10) Energy recovery and incineration facilities - Permit application contents.~~ The owner or operator of an energy recovery or incineration facility ~~((shall))~~ must obtain a solid waste permit from the jurisdictional health department. All applications for permits ~~((shall))~~ must be in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each permit application ~~((shall))~~ must contain:

~~(a) ((Preliminary)) Engineering reports/plans and specifications that address~~((~~~~

~~(i) The design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash and any other wastes produced by air or water pollution controls; and~~

~~(ii) The design of the incinerator or thermal treator, including charging or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included.)~~ ~~the standards of subsections (4) and (5) of this section;~~

~~(b) A plan of operation that addresses the requirements of subsection ~~((4))~~ ~~(6)~~ of this section; and~~

(c) A closure plan meeting the requirements of subsection ((6)) (8) of this section.

(11) Energy recovery and incineration facilities - Environmental impact statement. In accordance with RCW 70.95.700, no solid waste energy recovery or incineration facility established on or after January 1, 1989 may be operated prior to the completion of an environmental impact statement containing the considerations required under RCW 43.21C.030 (2)(c) and prepared pursuant to the procedures of chapter 43.21C RCW, State environmental policy.

AMENDATORY SECTION (Amending WSR 13-08-016, filed 3/25/13, effective 4/25/13)

WAC 173-350-250 Anaerobic digesters. (1) Anaerobic digesters - Applicability. ((This section applies))

(a) These standards apply to all facilities that treat solid waste by anaerobic digestion((, except (a), (b), and (e) of this subsection)).

(b) These standards do not apply to:

((a)) (i) Storage or treatment of solid or liquid wastes in surface impoundments or tanks regulated under WAC 173-350-330;

((b))) (ii) Anaerobic digesters regulated in accordance with chapter 90.48 RCW, Water pollution control; and

((c))) (iii) Anaerobic digesters regulated in accordance with chapter 173-308 WAC, Biosolids management.

(2) Anaerobic digesters - Permit exemptions. In accordance with RCW 70.95.305, anaerobic digester facilities processing the types and volumes of materials identified in Table 250-A are subject solely to the requirements of Table 250-A and (b) of this subsection and are exempt from solid waste handling permitting. Feedstocks not listed in Table 250-A must be approved by the department. Violations of the terms and conditions of Table 250-A and (b) of this subsection may be subject to ((penalty)) enforcement provisions of RCW 70.95.315.

(a) An owner or operator that does not comply with the terms and conditions of Table 250-A and (b) of this subsection must((:

((i)) obtain a solid waste handling permit from the jurisdictional health department((;)) and ((a)) comply with all applicable requirements of this chapter.

((Violations of the terms and conditions of Table 250-A and (b) of this subsection may be subject to the penalty provisions of RCW 70.95.315.))

Table 250-A

Terms and Conditions for Exemptions

	Organic Materials	Volume	Specific Requirements for Activity or Operation
(1)	All organic feedstocks	No more than 5,000 gallons or 25 cubic yards of material on-site at any one time.	No notification, reporting or testing requirements.
(2)	All organic feedstocks	Greater than 5,000 but no more than 50,000 gallons of liquid or semi-solid material on-site at any one time; or Greater than 25 but no more than 250 cubic yards of non-liquid material on-site at any one time.	For facilities managing more than 5,000 gallons or 25 cubic yards on-site at any one time, and if organic materials are received from or distributed off-site, the owner or operator must: (a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department. (b) Facilities that distribute digestate (solids, semi-solids or liquids) off-site must meet the following conditions: (i) Sample and test digestate solids every 5,000 cubic yards or once per year, whichever is more frequent, to demonstrate it meets compost quality standards of WAC 173-350-220(4) (Table 220-B) before it is distributed for off-site use; or (ii) Ensure digestate liquids or nonseparated digestate meets the conditions for a commercial fertilizer as applicable in chapter 15.54 RCW, <u>Fertilizers, minerals, and limes</u> ; or (iii) Send digestate to a compliant permitted or conditionally exempt compost facility for further treatment to meet compost quality standards; or (iv) Land apply digestate in accordance with WAC 173-350-230, Land application; or

	Organic Materials	Volume	Specific Requirements for Activity or Operation
			<p>(v) Use digestate in accordance with WAC 173-350-200, Beneficial use permit exemptions; or</p> <p>(vi) Process or manage digestate in an alternate manner approved by the department or the jurisdictional health department;</p> <p>(vii) Submit annual reports and results of digestate analysis (if applicable) to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.</p>
(3)	<p>Livestock manure; may include livestock manure that is imported, which means originating off of the farm or site where the anaerobic digester is being operated; and</p> <p>Organic feedstocks except materials collected from municipal, commercial or residential solid waste collection programs. All imported organic materials must be preconsumer.</p> <p>If imported organic feedstocks are likely to contain animal by-products, they must be previously source separated at a facility licensed to process food by the United States Department of Agriculture, the United States Food and Drug Administration, the Washington state department of agriculture, or other applicable regulatory agency.</p>	<p>No limits when live-stock manure is at least 50(<u>%</u>) <u>percent</u> of total feedstocks volume, and imported, nonmanure organic feedstocks are not greater than 30(<u>%</u>) <u>percent</u> of total feedstock volume.</p>	<p>(a) Thirty days prior to operation, facilities managing imported organic feedstocks must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department.</p> <p>(b) All organic materials must be received and stored in a structure(s) that:</p> <ul style="list-style-type: none"> (i) Complies with the Natural Resources Conservation Service's Practice Standard Code 313 in effect as of July 26, 2009, or other approved storage construction standard approved by the department or the jurisdictional health department; (ii) Is certified by a representative of the Natural Resources Conservation Service to be effective at protecting surface and groundwater; or (iii) Meets applicable construction industry standards adopted by the American Concrete Institute or the American Institute of Steel Construction in effect as of July 26, 2009; and (iv) Prevents migration of nuisance odors beyond property boundaries and minimizes attraction of flies, rodents, and other vectors. <p>(c) The anaerobic digester must be designed and operated in accordance with standards in the Natural Resources Conservation Service's Conservation Practice Standard, Code 366, in effect as of July 26, 2009.</p> <p>(d) All imported organic feedstocks must be fed into the anaerobic digester within 36 hours.</p> <p>(e) Digestate must be managed in accordance with a dairy nutrient management plan under chapter 90.64 RCW, <u>Dairy nutrient management</u>, that includes elements addressing management and use of digestate.</p> <p>Digestate that is managed in accordance with the dairy nutrient management plan under chapter 90.64 RCW, <u>Dairy nutrient management</u>, is no longer a solid waste when those plans include elements addressing management and use of digestate.</p>

	Organic Materials	Volume	Specific Requirements for Activity or Operation
	If imported organic feedstocks contain bovine processing waste, they must be derived from animals approved by the United States Department of Agriculture Food Safety and Inspection Service and not contain any specified risk material. Imported organic feedstocks cannot contain sheep carcasses or sheep processing waste.		(f) Facilities that distribute digestate (solids, semi-solids or liquids) off-site other than under a nutrient management plan must meet the following conditions: (i) Digestate must meet compost quality standards of WAC 173-350-220 for pathogens, stability, nutrient testing, metals and other testing before it is distributed for off-site use; or (ii) Be sent to an off-site permitted compost facility for further treatment to meet compost quality standards; or (iii) Be processed or managed in an alternate manner approved by the department; and facilities must: Submit annual reports and results of digestate analysis (if applicable) to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.

(b) The owner or operator of an anaerobic digester in compliance with all of the conditions of Table 250-A must also meet all of the following conditions in order to maintain exempt status:

- (i) Comply with the performance standards of WAC 173-350-040;
- (ii) Allow inspections by the department and/or jurisdictional health department at reasonable times to verify compliance with the conditions specified in this subsection;
- (iii) Manage the operation to prevent the attraction of flies, rodents, and other vectors; and
- (iv) Manage the operation to prevent the migration of agricultural pests identified by local horticultural pest and disease control boards, as applicable.

(3) **Anaerobic digesters - Permit requirements - Location** (*standards (permit requirements)*). There are no specific location standards for anaerobic digesters subject to this chapter; however, anaerobic digesters must meet the (*requirements of other federal, state, or local laws and regulations that apply under*) *performance standards of WAC 173-350-040((§5))*.

Note: When considering anaerobic digestion facility location, please review the U.S. Department of Transportation Federal Aviation Advisory Circular No. 150/5200-33B. 2007.

(4) **Anaerobic digesters - Permit requirements - Design** (*standards (permit requirements)*). Anaerobic digesters must be designed (*such*) so that the facility can be operated to meet the performance standards (*requirements in*) *of WAC 173-350-040*. The owner or operator of an anaerobic digester facility must:

(a) Prepare and provide to the jurisdictional health department engineering reports, plans, specifications, and a construction quality assurance plan that address the standards of this subsection. The reports, plans, and specifications must be prepared by (*an*) *a professional engineer (licensed) registered* in the state of Washington and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features of the facility including, but not limited to, pads, impoundments, leachate management features (if applicable), digestate management features, stormwater management features, and anaerobic digester features. The engineering report must demonstrate

that the proposed design will meet the performance standards of this chapter;

(ii) Scale drawings of the facility including the location and size of feedstock storage areas, fixed equipment, buildings, leachate management features (if applicable), digestate management features, stormwater management features, access road and other constructed areas, and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility including, but not limited to, pads, stormwater management features, leachate management features (if applicable), digestate management features, and an anaerobic digester design that demonstrates all structures, containers, tanks, and/or surface impoundments will meet the requirements of this section, and of any federal, state, or local water and air quality permits; and

(iv) A construction quality assurance plan that describes monitoring, testing and documentation procedures that must be performed during construction of the facility to ensure the facility is constructed in accordance with the approved design.

(b) Provide all weather roads from the public highway to and within the facility when operations require public access. Roads must be designed and maintained to prevent traffic congestion, traffic hazards, dust and noise pollution(*(-)*);

(c) Design waste receiving areas, digesters, digestate management features, stormwater, and leachate management features (if applicable), to prevent contamination of air, soil, surface water, and groundwater(*(-)*);

(i) Feedstock, leachate (if applicable), and digestate receiving and storage areas must either be in tanks or surface impoundments meeting the requirements of this section, or be on pads to prevent contamination of air, soil, surface water, and groundwater underlying or adjacent to receiving and storage areas;

(ii) Pads must meet the following requirements:

(A) All pads must be curbed or graded in a manner to prevent ponding, control run-on and runoff, and separately collect and convey all stormwater and leachate to separate storage or holding systems. Stormwater that is combined with leachate must be treated as leachate in accordance with this section;

(B) All pads must be constructed on subgrades that provide sufficient bearing capacity to support the weight of the pad, the materials placed on them, and the equipment used in handling the materials;

(C) The entire surface area of the pad must be designed to maintain its structural and hydraulic integrity against loads resulting from feedstock and digestate storage, machinery used for feedstock handling, and against surface wear or damage caused by feedstock and digestate handling and storage;

(D) The pad may be constructed of materials such as concrete (with sealed joints) or asphaltic concrete that prevents subsurface soil and groundwater contamination; and

(E) The jurisdictional health department may allow pads to be designed and constructed with materials other than those listed in (c)(ii)(D) of this subsection, ((provided)) if the applicant demonstrates in the engineering report to the jurisdictional health department's satisfaction that the alternative pad provides sufficient protection to meet the performance standards of this section and of WAC 173-350-040.

(iii) The anaerobic digester design must comply with one of the following three conditions:

(A) Design criteria in the Natural Resources Conservation Service's Washington Conservation Practice Standard, Anaerobic Digester Code 366 in effect October 2010, or other effective date as specified by the department; or

(B) Surface impoundment and tank design standards, WAC 173-350-330((3)) (4); or

(C) Other engineered design that the owner or operator can demonstrate ((complies with the conditions)) meets the performance standards of WAC 173-350-040 to the jurisdictional health department's and the department's satisfaction. Written consent from the jurisdictional health department and the department constitutes approval.

(iv) Stormwater management features must divert stormwater from feedstock receiving and storage areas, and from digestate collection and storage areas. Features may include, but are not limited to, run-on prevention systems, berms, diversion swales, ditches, and other features;

(v) Leachate management features may include, but are not limited to, runoff prevention systems, leachate collection, conveyance, storage structures, and treatment systems;

(vi) Leachate (if applicable) must be contained or collected. Any discharges to ground that result in contaminants migrating to groundwater require a waste discharge permit under chapter 90.48 RCW, Water pollution control, prior to discharge. Discharges to ground that result in degradation of groundwater quality are prohibited under chapter 90.48 RCW, Water pollution control. Any discharge to sanitary sewer requires additional permitting by the local delegated authority or department;

(vii) Leachate ponds or tanks, or digestate liquid storage in ponds or tanks must meet one of the following conditions:

(A) Ponds must meet Natural Resources Conservation Service Standard for a waste storage facility in the 2001 *Washington Field Office Technical Guide 313* (revised June 2011); or

(B) Ponds must have a liner consisting of a minimum 30-mil thickness geomembrane on a subgrade that provides sufficient bearing capacity to support the liner and the contents

of the pond. A liner constructed with a high density polyethylene geomembrane must be at least 60-mil thick to allow for proper welding; and

(I) Have dikes and slopes designed to maintain their structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action, overfilling, or precipitation; and

(II) Have freeboard (distance between the liquid level and the top of the pond) equal to or greater than eighteen inches to avoid overtopping from wave action, overfilling, or precipitation. The jurisdictional health department may reduce the freeboard requirement ((provided that)) if other engineering controls are in place that prevent overtopping. These engineering controls must be specified during the permitting process; or

(C) The jurisdictional health department may approve the use of an alternative liner design if the owner or operator can demonstrate during the permitting process that the proposed design will prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection; or

(D) Tanks used to store leachate or digestate liquid must meet design standards in WAC 173-350-330 ((3)) (4)(b).

(viii) Leachate ponds and digestate liquid storage that have the potential to impound more than 10-acre feet (three million two hundred fifty-nine thousand gallons) of liquid measured from the top of the dike and that would be released by a failure of the containment dike must be reviewed and approved by the department's dam safety section.

(5) Anaerobic digesters - Permit requirements - Documentation. Facilities must not start operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report, plans, and specifications and has approved the construction documentation in writing and issued a permit. Within thirty days of completing construction, the owner or operator of an anaerobic digestion facility must provide the following materials to the jurisdictional health department and the department:

(a) Copies of the construction record drawing for engineered features at the facility; and

(b) A report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan.

(6) Anaerobic digesters - Permit requirements - Operating ((standards (permit requirements))). The owner or operator of an anaerobic digester must operate in compliance with the performance standards of WAC 173-350-040 or Natural Resource Conservation Service Practice Standard Code 366 as applicable, and:

(a) Operate the facility to:

(i) Control air contaminants, such as dust and nuisance odors, to prevent these and other contaminants from migrating beyond property boundaries;

(ii) Prevent the attraction of vectors;

(iii) Prevent the migration of agricultural pests identified by the local horticultural pest and disease control boards as applicable;

(iv) Confine organic materials prior to and after processing to specifically designated areas, meeting the applicable standards of this section;

(v) Ensure that dangerous waste is not accepted, treated, or stored;

(vi) Ensure the facility operates under the supervision and control of a properly trained individual during hours of operation when facility staffing is required;

(vii) Ensure facility employees are trained in appropriate facility operations, maintenance procedures, and safety and emergency procedures according to individual job duties and according to an approved plan of operation; and

(viii) Restrict access to the facility when the facility is closed.

(b) Inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges that may lead to the release of wastes to the environment or cause a threat to human health. The owner or operator must conduct these inspections as needed, but at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process.

(c) Maintain operating records of the following:

(i) Process monitoring data as described in the plan of operation;

(ii) The quantity in gallons or cubic yards, and types of feedstocks received;

(iii) Results of analysis for digestate that is sold or distributed, according to subsection (5)(e) of this section; and

(iv) Facility inspection reports. Significant deviations from the plan of operation must be noted in the operating record. Records must be kept for a minimum of five years and must be available upon request by the jurisdictional health department.

(d) Prepare and submit ((~~a copy of~~) an annual report to the jurisdictional health department and the department by April 1st of each calendar year for activities during the previous calendar year. Annual reports must be submitted on forms provided by the department and must include:

(i) Annual quantity and type of feedstocks received;

(ii) Annual quantity of digestate distributed if applicable;

(iii) Annual summary of digestate analysis as applicable, if digestate is distributed off-site; and

(iv) Any additional information required by the department or the jurisdictional health department.

(e) If distributing digestate (solids, semi-solids, or liquids) off-site, produce and manage the product so that it does not harm human health or the environment; and:

(i) Test representative samples of digestate solids every 5,000 cubic yards to demonstrate it meets compost quality standards in WAC 173-350-220((~~4~~)) (6) (Table 220-B). An alternate testing frequency may be required or approved by the jurisdictional health department; or

(ii) Ensure digestate meets the conditions for a commercial fertilizer as applicable in chapter 15.54 RCW, Fertilizers, minerals, and limes; or

(iii) Send digestate to a permitted compost facility for further processing; or

(iv) Land apply digestate in accordance with WAC 173-350-230, Land application; or

(v) Use digestate in accordance with WAC 173-350-200, Beneficial use permit exemption; or

(vi) Apply digestate on agricultural lands at agronomic rates in accordance with a dairy nutrient management plan or a nutrient management plan; or

(vii) Manage digestate in an alternate manner as approved by the jurisdictional health department and the department.

(f) Develop, keep, and ((~~abide by~~) follow a plan of operation approved as part of the permitting process. The plan must describe the facility's operation and must convey to site operating personnel the concept of operation intended by the facility designer. The plan of operation must be kept on-site and available for inspection at the request of the jurisdictional health department. When necessary, the plan must be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of feedstocks to be handled at the facility. Feedstocks must be approved by the department or jurisdictional health department;

(ii) Procedures for ensuring that only feedstocks described will be accepted;

(iii) Procedures for handling unacceptable wastes;

(iv) A plan for processing digestate to meet the requirements of (e) of this subsection, if distributing digestate off-site;

(v) A nutrient management plan for agricultural lands and farm lands (as described in RCW 84.34.020) if using digestate on-site;

(vi) A description of how facility staff will be appropriately trained;

(vii) A calculation of monthly processing capacity based on maximum volume (cubic yards or gallons) of all materials on-site at any one time. All materials on-site include feedstocks, digesting materials and digestate;

(viii) A material flow plan describing general procedures to manage all materials on-site. All materials on-site include incoming feedstock, digesting materials, and digestate;

(ix) An odor management plan including, but not limited to, the following components:

(A) Methods for treating emissions to reduce odors, if any;

(B) A community relations plan to address odor issues should they arise; and

(C) A description of facility and operational improvements that could be made, if nuisance odors are identified beyond the facility's property boundary, as determined by the jurisdictional health department, the department, or the permitting air authority. The description of operational improvements must address feedstock receiving, processing, and digestate storage areas of the facility.

(x) A description of how equipment, structures, and other systems will be inspected and maintained, including frequency of inspection and inspection logs. This description must include, but is not limited to:

(A) The groundwater monitoring system, if required;

(B) The overfilling prevention equipment, including details of filling and emptying techniques; and

(C) The liners of surface impoundments and tanks, tank piping, and secondary containment, as applicable.

(xi) Safety, fire, and emergency plans including a spill prevention/response plan;

(xii) The forms used to record volumes (in cubic yards or gallons) of accepted feedstocks; and

(xiii) Other ((such)) details to demonstrate that the facility is operated in accordance with this chapter and as required by the jurisdictional health department.

((6))) (7) Anaerobic digesters - Permit requirements

- Groundwater monitoring ((requirements (permit requirements))). There are no specific groundwater monitoring requirements for anaerobic digestion facilities subject to this chapter; however, anaerobic digestion facilities must meet the ((requirements of other federal, state, or local laws and regulations that apply under)) performance standards of WAC 173-350-040((§)).

((7))) (8) Anaerobic digesters - Permit requirements

- Closure ((requirements)). The owner or operator of an anaerobic digester facility must:

(a) Develop, keep, and follow a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan must include removing all organic materials, including digestate, from the facility. For planning purposes, assume the facility is at full permitted site capacity when it is closed; and

(b) Notify the jurisdictional health department sixty days in advance of closure. At closure, the facility is financially responsible for the removal of all organic materials including, but not limited to, raw or partially digested feedstocks, and digestate from the facility. The materials must be sent to another facility that complies with the applicable regulations for handling the waste.

((8))) (9) Anaerobic digesters - Permit requirements

- Financial assurance ((requirements (permit requirements))). There are no specific financial assurance requirements for anaerobic digestion facilities subject to this chapter; however, anaerobic digestion facilities must meet the ((requirements of other federal, state, or local laws and regulations that apply under)) performance standards of WAC 173-350-040((§)).

((9))) (10) Anaerobic digesters - Permit requirements - Permit application contents ((permit requirements)). The owner or operator of an anaerobic digestion facility not exempt under subsection (2) of this section must obtain a solid waste permit from the jurisdictional health department. All applications for permits must be in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each permit application must contain:

(a) Engineering reports, plans, and specifications that address the design standards of subsections (4) and (5) of this section;

(b) A plan of operation that addresses the requirements of subsection ((§)) (6) of this section; and

(c) A closure plan meeting the requirements of subsection ((7))) (8) of this section.

((10)) Anaerobic digester - Construction records (permit requirements). Facilities must not start operation until the jurisdictional health department has determined that the con-

struction was completed in accordance with the approved engineering report, plans, and specifications and has approved the construction documentation in writing and issued a permit. Within thirty days of completing construction, the owner or operator of an anaerobic digestion facility must provide the following materials to the jurisdictional health department and the department:

(a) Copies of the construction record drawings for engineered facilities at the site; and

(b) A report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan.)

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-300 On-site storage, collection, and transportation standards. (1) **On-site storage, collection and transportation standards - Applicability.** ((This section is applicable)) These standards apply to the temporary storage of solid waste in a container at a premises, business establishment, or industry and the collecting and transporting of the solid waste.

(2) On-site storage.

(a) The owner or occupant of any premises, business establishment, or industry ((shall be)) is responsible for the safe and sanitary storage of all containerized solid wastes accumulated at those premises.

(b) The owner, operator, or occupant of any premises, business establishment, or industry ((shall)) must store solid wastes in containers that meet the following requirements:

(i) Disposable containers ((shall)) must be sufficiently strong to allow lifting without breakage and ((shall)) must be thirty-two gallons in capacity or less where manual handling is practiced;

(ii) Reusable containers, except for detachable containers, ((shall)) must be:

(A) Rigid and durable;

(B) Corrosion resistant;

(C) Nonabsorbent and water tight;

(D) Rodent-proof and easily cleanable;

(E) Equipped with a close-fitting cover;

(F) Suitable for handling with no sharp edges or other hazardous conditions; and

(G) Equal to or less than thirty-two gallons in volume where manual handling is practiced;

(iii) Detachable containers ((shall)) must be durable, corrosion-resistant, nonabsorbent, nonleaking and have either a solid cover or screen cover to prevent littering.

(3) Collection and transportation standards.

(a) All persons collecting or transporting solid waste ((shall)) must avoid littering at the loading point, during transport and during proper unloading of the solid waste.

(b) Vehicles or containers used for the collection and transportation of solid waste ((shall)) must be tightly covered or screened where littering may occur, durable and of easily cleanable construction. Where garbage is being collected or transported, containers ((shall)) must be cleaned as necessary to prevent nuisance odors and insect breeding and ((shall)) must be maintained in good repair.

(c) Vehicles or containers used for the collection and transportation of any solid waste ((shall)) must be loaded and moved in ((such)) a manner that the containers will not fail, and the contents will not spill or leak. Where such spillage or leakage does occur the waste ((shall)) must be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

(d) All persons commercially collecting or transporting solid waste ((shall)) must inspect collection and transportation vehicles at least monthly. Inspection records ((shall)) must be maintained at the facility normally used to park ((such)) vehicles or ((such)) other location that maintenance records are kept. ((Such)) Records ((shall)) must be kept for a period of at least two years, and be made available upon the request of the jurisdictional health department.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-310 ((Intermediate solid waste handling)) Transfer stations and drop box facilities. (1) ((*Intermediate solid waste handling facilities*)) **Transfer stations and drop box facilities - Applicability.** ((This section is applicable to any facility engaged in solid waste handling that provides intermediate storage and/or processing prior to transport for final disposal. This includes, but is not limited to, material recovery facilities, transfer stations, baling and compaction sites, and drop box facilities. This section is not applicable to:))

(a) These standards apply to transfer stations and drop box facilities as defined in WAC 173-350-100.

(b) These standards do not apply to:

(i) Storage((5)) or treatment ((or recycling)) of solid waste in outdoor piles ((which are)) subject to WAC 173-350-320;

((b)) (ii) Storage or recycling of solid waste in surface impoundments ((which are)) subject to WAC 173-350-330;

((e)) Composting facilities subject to WAC 173-350-220;

((d)) (iii) Recycling ((which is)) and material recovery facilities subject to WAC 173-350-210;

((e)) (iv) Storage of waste tires ((which is)) subject to WAC 173-350-350;

((f)) Storage)) (v) Handling of moderate risk waste ((prior to recycling which is)) subject to WAC 173-350-360((

(g) Energy recovery or incineration of solid waste which is subject to WAC 173-350-240)); and

((h)) Drop boxes)) (vi) Waste containers placed at the point of waste generation ((which is)) subject to WAC 173-350-300.

(2) ((*Materials recovery facilities*)) **Transfer stations and drop box facilities - Permit exemptions ((and notification.** (a)) In accordance with RCW 70.95.305, ((*material recovery facilities*)) drop boxes managed in accordance with the terms and conditions of ((b) of this subsection)) Table 310-A are exempt from solid waste handling permitting. ((An owner or operator that does not comply with the terms and conditions of (b) of this subsection is required to obtain a permit from the jurisdictional health department as an intermedi-

ate solid waste handling facility and shall comply with the requirements of WAC 173-350-310.)) If a facility does not operate in compliance with the terms and conditions established for an exemption under this subsection, the facility may be subject to the permitting requirements for solid waste handling under this chapter. In addition, violations of the terms and conditions of ((b) of this subsection may be subject to the ((penalty)) enforcement provisions of RCW 70.95.315.

((b)) Material recovery facilities shall be managed according to the following terms and conditions to maintain their exempt status:

(i) Meet the performance standards of WAC 173-350-040;

(ii) Accept only source separated recyclable materials and dispose of an incidental and accidental residual not to exceed five percent of the total waste received, by weight per year, or ten percent by weight per load;

(iii) Allow inspections by the department or jurisdictional health department at reasonable times;

(iv) Notify the department and jurisdictional health department, thirty days prior to operation, or ninety days from the effective date of the rule for existing facilities, of the intent to operate a material recovery facility in accordance with this section. Notification shall be in writing, and shall include:

(A) Contact information for facility owner or operator;

(B) A general description of the facility; and

(C) A description of the types of recyclable materials managed at the facility;

(v) Prepare and submit an annual report to the department and the jurisdictional health department by April 1st on forms supplied by the department. The annual report shall detail facility activities during the previous calendar year and shall include the following information:

(A) Name and address of the facility;

(B) Calendar year covered by the report;

(C) Annual quantities and types of waste received, recycled and disposed, in tons, for purposes of determining progress towards achieving the goals of waste reduction, waste recycling, and treatment in accordance with RCW 70.95.010(4); and

(D) Any additional information required by written notification of the department.))

Table 310-A**Terms and Conditions for Solid Waste Permit Exemption**

	Waste Materials	Specific Requirements for Activity or Operation
(1)	Drop boxes used solely for collecting recyclable materials	<p>(a) Meet the performance standards of WAC 173-350-040; and</p> <p>(b) Allow department and jurisdictional health department representatives to inspect the drop box at reasonable times for the purpose of determining compliance with this chapter.</p>

(3) ((*Intermediate solid waste handling*)) **Transfer stations and drop box facilities - Permit requirements - Location** ((*standards*)). There are no specific location standards for ((*intermediate solid waste handling*)) transfer stations or drop box facilities subject to this chapter; however, ((*intermediate solid waste handling*)) facilities must meet the ((*requirements provided under*)) performance standards of WAC 173-350-040((5)).

(4) ((*Intermediate solid waste handling*)) **Transfer stations and drop box facilities - Permit requirements - Design** ((*standards*)). Transfer stations and drop box facilities must be designed so that the facilities can be operated to meet the performance standards of WAC 173-350-040. The owner or operator of all ((*intermediate solid waste handling*)) transfer stations or drop box facilities ((*shall*) must prepare engineering reports/plans and specifications to address the following design standards:

(a) ((*Material recovery facilities, baling and compaction sites shall*) must:

(i) Control public access, and prevent unauthorized vehicular traffic and illegal dumping of waste;

(ii) Be sturdy and constructed of easily cleanable materials;

(iii) Provide effective means to control rodents, insects, birds and other vectors;

(iv) Provide effective means to control litter including, but not limited to, orientation of the tipping floor in a manner that prevents prevailing winds from moving waste outside the collection area when other structures are not in place to prevent this;

(v) Provide ((*protection of*)) a tip floor made of impervious material such as concrete or asphalt to prevent soil and groundwater contamination. The surface must be durable enough to withstand damage from operating equipment. The jurisdictional health department may approve other types of surfaces if the applicant can demonstrate that it will prevent soil and groundwater contamination;

(vi) Cover the tipping floor to protect it from ((*wind, rain or snow*);

(vi) Provide pollution control measures to protect surface and groundwaters, including runoff collection and discharge designed to handle a twenty-five year storm as defined in WAC 173-350-100, and equipment cleaning and washdown water)) precipitation;

(vii) Convey leachate from the tipping floor to a surface impoundment, tank, or sanitary sewer, or use other methods approved by the jurisdictional health department to prevent uncontrolled discharges;

(viii) Provide for stormwater runoff collection and discharge from a twenty-five year storm;

(ix) Provide pollution control measures to protect air quality; and

((viii))) (x) Provide all-weather surfaces for vehicular traffic.

(b) Drop ((*boxes shall be*)) box facilities must:

(i) Control public access, and prevent unauthorized vehicular traffic and illegal dumping of waste;

(ii) Provide drop boxes constructed of durable, watertight materials with a lid or screen on top that prevents litter, the loss of materials during transport, and access by rats and other vectors((, and control litter.

(5) *Intermediate solid waste handling facilities - Operating standards.);*

(iii) Be designed so that customers may easily place waste directly into drop boxes; and

(iv) Provide all-weather surfaces for vehicular traffic.

(5) Transfer station and drop box facilities - Permit requirements - Documentation.

(a) The owner or operator must submit facility drawings and construction documents for, at a minimum, any elements described in subsection (4) of this section to the jurisdictional health department for review and approval. The facility drawings and construction documents must be prepared by a professional engineer registered in the state of Washington, and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features. The engineering report must demonstrate that the proposed design will meet the performance standards of WAC 173-350-040;

(ii) Scale drawings of the facility including the location and size of waste handling areas, fixed equipment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility as applicable; and

(iv) For new construction, a construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility, to ensure the facility is constructed in accordance with the approved design.

(b) The owner or operator must provide copies of the construction record drawings for engineered features at the facility and a report documenting facility construction, including the results of observations and any testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. The owner or operator must not commence operation in a newly constructed portion of the facility until the jurisdictional

health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

(6) Transfer stations and drop box facilities - Permit requirements - Operating. The owner or operator of ((an intermediate solid waste handling)) a transfer station or drop box facility ((shall)) must:

(a) Operate the ((facility to:

(i) For material recovery facilities transfer stations, bailing and compaction sites:

(A) Be protective of human health and the environment;

(B) Prohibit the disposal of) site in compliance with the performance standards of WAC 173-350-040 and this subsection. In addition, the owner or operator must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan of operation must be available for inspection at the request of the jurisdictional health department. If necessary, the plan must be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of waste materials to be handled at the facility;

(ii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;

((C) Control rodents, insects, and other vectors;

((D)) (iii) A description of how waste materials are to be handled on-site including maximum site capacity, methods of adding or removing waste from the facility and equipment used, and how operators will ensure adequate dumping capacity at all times;

(iv) A description of how the owner or operator will ensure the facility is operated in a way to:

(A) Control litter, dust, and nuisance odors;

((E)) (B) Control rodents, insects and other vectors;

(C) Prohibit scavenging;

((F) Prohibit open burning;

(G) Control dust;

(H) For putrescible waste, control nuisance odors;

(I) Provide attendant(s) on site during hours of operation;

((J) Have)) (D) Provide a sign at the site entrance that identifies the facility and shows at ((least)) a minimum the name of the site((, and, if applicable, hours during which the site is open for public use, what materials the facility does not accept and other necessary information posted at the site entrance)); and

((K) Have communication capabilities to immediately summon fire, police, or emergency service personnel in the event of an emergency.

((i))) (E) Ensure that waste capable of attracting birds does not pose an aircraft safety hazard.

(v) A description of how operators will inspect and maintain the facility to prevent deterioration or the release of wastes to the environment that could pose a threat to human health, including the inspection form operators will use. Inspections must be as needed, but at least weekly, unless an

alternate schedule is approved by the jurisdictional health department as part of the permitting process;

(vi) A description of how operators will maintain operating records on the amounts (weight or volume) and types of waste received or removed from the facility, including the form or computer printout used to record this information. Facility annual reports must be maintained in the operating record. Facility inspection reports must be maintained in the operating record, including at least the date of inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. Significant deviations from the plan of operation must be noted in the operating record. Records must be kept for a minimum of five years and must be available upon request by the jurisdictional health department;

(vii) Safety and emergency plans; and

(viii) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(b) For transfer stations, the plan of operations must also address how the operators will:

(i) Prove attendant(s) are on-site during hours of operation;

(ii) Immediately summon fire, police, or emergency service personnel in the event of an emergency;

(iii) Remove or otherwise manage leachate from containment structure(s) to prevent soil and/or groundwater contamination; and

(iv) Remove waste from the tipping floor at a frequency approved by the jurisdictional health department.

(c) For drop box facilities((:

(A) Be serviced)), the plan of operations must also address how the operators will service the facility as often as necessary to ensure adequate dumping capacity at all times. Storage of waste outside the drop boxes is prohibited;

((B) Be protective of human health and the environment;

(C) Control rodents, insects, and other vectors;

(D) Control litter;

(E) Prohibit scavenging;

(F) Control dust;

(G) For putrescible waste, control nuisance odors; and

(H) Have a sign that identifies the facility and shows at least the name of the site, and, if applicable, hours during which the site is open for public use, what materials the facility does not accept and other necessary information posted at the site entrance;

(b) Inspect and maintain the facility to prevent deterioration or the release of wastes to the environment that could pose a threat to human health. Inspection shall be as needed, but at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process;

(c) Maintain daily operating records on the weights and types of wastes received or removed from the facility. Facility inspection reports shall be maintained in the operating record. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be kept for a minimum of five years and shall be available upon request by the jurisdictional health department;))

(d) Prepare and submit ((a copy of) an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report ((shall)) must detail the facility's activities during the previous calendar year and ((shall)) must include the following information:

- (i) Name and address of the facility;
- (ii) Calendar year covered by the report;
- (iii) Annual quantity of each type of solid waste handled by the facility, in tons;
- (iv) Destination of waste transported from the facility for processing or disposal; and
- (v) Any additional information required by the jurisdictional health department as a condition of the permit.

((e)) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

- (i) A description of the types of solid wastes to be handled at the facility;
- (ii) A description of how solid wastes are to be handled on site during the facility's life, including maximum facility capacity, methods of adding or removing waste from the facility and equipment used;
- (iii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;
- (iv) Safety and emergency plans;
- (v) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;
- (vi) For putrescible wastes, an odor management plan describing the actions to be taken to control nuisance odors;
- (vii) The forms used to record volumes or weights; and
- (viii) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

((6)) *Intermediate solid waste handling*) (7) Transfer station and drop box facilities - Permit requirements - Groundwater monitoring ((requirements)). There are no specific groundwater monitoring requirements for ((intermediate solid waste handling)) transfer station and drop box facilities subject to this chapter; however, ((intermediate solid waste handling)) facilities must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5)).

((7)) *Intermediate solid waste handling*) (8) Transfer stations and drop box facilities - Permit requirements - Closure ((requirements)). The owner or operator of ((an intermediate solid waste handling facility shall)) a transfer station or drop box facility must develop, keep, and follow a closure plan that includes:

- (a) ((Notify)) Notification to the jurisdictional health department ((one hundred eighty)) ninety days in advance of closure of a transfer station or drop box facility.

(b) Removal of all waste ((shall be removed)) to a facility that conforms with the applicable regulations for handling the waste((.))

(b) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the methods of removing waste.

(8) *Intermediate solid waste handling*); and

(c) Methods of removing waste.

(9) Transfer station and drop box facilities - Permit requirements - Financial assurance. There are no specific financial assurance requirements for ((intermediate solid waste handling)) transfer stations and drop box facilities subject to this chapter; however, ((intermediate solid waste handling)) facilities must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5)).

((9)) *Intermediate solid waste handling*) (10) Transfer station and drop box facilities - Permit application contents. The owner or operator of ((an intermediate solid waste handling)) a transfer station or drop box facility ((shall)) must obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(a) ((For material recovery facilities, transfer stations, baling and compaction sites:

((i))) Engineering reports/plans and specifications that address the ((design)) standards of subsections (4)((a)) and (5) of this section;

((ii))) (b) A plan of operation meeting the applicable requirements of subsection ((5)) (6) of this section; and

((iii))) (c) A closure plan meeting the requirements of subsection ((7)) (8) of this section((.));

(b) For drop boxes:

(i) Engineering reports/plans and specifications that address the design standards of subsection (4)(b) of this section;

(ii) A plan of operation meeting the applicable requirements of subsection (5) of this section; and

(iii) A closure plan meeting the requirements of subsection (7) of this section)).

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-320 Piles used for storage or treatment. (1) **Piles used for storage or treatment - Applicability.**

(a) ((This section is applicable to solid waste stored or treated in piles where putrescible waste piles that do not contain municipal solid waste are in place for more than three weeks, nonputrescible waste and contaminated soils and dredged material piles are in place for more than three months and municipal solid waste piles are in place for more than three days. This section is not applicable to)) These standards apply to the outdoor storage or treatment of solid waste in piles.

(b) These standards do not apply to:

(i) ((Waste) Piles of recyclable materials and other solid wastes stored indoors at recycling or material recovery facilities subject to WAC 173-350-210;

((ii) Piles located at composting facilities subject to WAC 173-350-220 that are an integral part of the facility's operation;

((iii) Piles of nonputrescible waste stored in enclosed buildings provided that no liquids or liquid waste are added to the pile; and))

((iii) Piles to be land applied subject to WAC 173-350-230;

((iv) Piles located at anaerobic digester sites subject to WAC 173-350-250;

((v) Piles of solid waste at transfer stations subject to design standards for tip floors in WAC 173-350-310;

((vi) Indoor storage of piles of contaminated soil or contaminated dredged material subject to WAC 173-350-310;

((vii) Piles of waste tires ((or used tires)) subject to WAC 173-350-350; and

((viii) Piles of contaminated soil or contaminated dredged materials stored and treated indoors subject to WAC 173-350-490.

((b)) (2) **Piles used for storage or treatment - Permit exemptions.** In accordance with RCW 70.95.305, ((storage piles of wood waste used for fuel or as a raw material, wood derived fuel, and agricultural wastes on farms, are subject solely to the requirements of (e)(i) through (iii))) facilities managing solid wastes in piles meeting the conditions listed in Table 320-A and the conditions of (a) of this subsection ((and)) are exempt from solid waste handling permitting. ((An owner or operator that does not comply with the terms and conditions of (e)(i) through (iii) of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with all other applicable requirements of)) If a facility does not operate in compliance with the terms and conditions established for an exemption under this subsection, the facility may be subject to the permitting requirements for solid waste handling under this chapter. In addition, violations of the terms and conditions

((of (e)(i) through (iii))) of this subsection may be subject to the ((penalty)) enforcement provisions of RCW 70.95.315.

((e) Owners and operators of all storage piles that are categorically exempt from solid waste handling permitting in accordance with (b) of this subsection shall:

(i) Ensure that at least fifty percent of the material stored in the pile is used within one year and all material is used within three years;

(ii) Comply with the performance standards of WAC 173-350-040; and

(iii) Allow department and jurisdictional health department representatives to inspect the waste pile at reasonable times for the purpose of determining compliance with this chapter.

(d) In accordance with RCW 70.95.305, the storage of inert waste in piles is subject solely to the requirements of (e)(i) through (vi) of this subsection and are exempt from solid waste handling permitting. The storage of inert waste in piles at a facility with a total volume of two hundred fifty cubic yards or less is subject solely to the requirements of (e)(iv) of this subsection. An owner or operator that does not comply with the terms and conditions of (e)(i) through (vi) of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with all other applicable requirements of this chapter. In addition, violations of the terms and conditions of (e)(i) through (vi) may be subject to the penalty provisions of RCW 70.95.315.

(e) Owners and operators of all storage piles that are categorically exempt from solid waste handling permitting in accordance with (d) of this subsection shall:

(i) Implement and abide by a procedure that is capable of detecting and preventing noninert wastes from being accepted or mixed with inert waste;

(ii) Ensure that at least fifty percent of the material stored in the pile is used within one year and all the material is used within three years;

(iii) Control public access and unauthorized vehicular traffic to prevent illegal dumping of wastes;

((iv)))

Table 320-A

Terms and Conditions for Solid Waste Permit Exemptions

	<u>Waste Materials</u>	<u>Volume, Storage Time, and Capacity Requirements</u>	<u>Specific Requirements for Activity or Operation</u>
(1)	<u>Wood waste, wood-derived fuel, nonferrous metals, brick, cured concrete, or asphaltic materials</u>	<u>Up to 250 cubic yards of total material on-site.</u> <u>No storage time limit.</u>	<u>No notification or reporting requirements.</u>
(2)	<u>Agricultural waste and on-farm vegetative wastes stored on farms</u>	<u>No volume limit.</u> <u>The duration of storage of the entire pile is limited to one year and limited to the amount that will be applied to the site during a one-year period. Subsequent accumulation under the same</u>	<u>No notification or reporting requirements.</u>

	<u>Waste Materials</u>	<u>Volume, Storage Time, and Capacity Requirements</u>	<u>Specific Requirements for Activity or Operation</u>
		<u>conditions is allowed at the same location after the entire pile has been used.</u>	
(3)	<u>Wood waste, wood-derived fuel and non-ferrous metals</u>	<p><u>Over 250 cubic yards up to 2,000 cubic yards total material on-site.</u></p> <p><u>At the end of each calendar year, the facility must have removed at least fifty percent of the sum of the volume of all waste present at the start of the calendar year and of the volume of all waste accepted during the calendar year.</u></p> <p><u>For example: A facility begins the calendar year with 300 CY of wood waste on hand. The facility accepts 400 CY during the calendar year. In order to meet this exemption requirement, at least $0.5 \times (300 + 400) = 350$ CY must be removed from the facility by the end of the calendar year, leaving no more than 349 CY on hand.</u></p>	<p>(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department and must be complete;</p> <p>(b) Maintain records on the volume of wastes received, processed, and moved off-site for five years; and</p> <p>(c) Prepare and submit an annual report to the department and the jurisdictional health department by April 1st on forms supplied by the department. The annual report must detail the facility's activities during the previous calendar year and must include the following information:</p> <p>(i) Name and address of the facility;</p> <p>(ii) Calendar year covered by the report;</p> <p>(iii) Annual quantities and types of solid waste handled by the facility, including amounts received, amounts removed and where it went, and the amount of waste remaining at the facility at year's end, in tons; and</p> <p>(iv) Any additional information required by the department.</p>
(4)	<u>Brick, cured concrete, or asphaltic material facilities with a water quality sand and gravel or construction stormwater general permit</u>	<u>Over 250 cubic yards; no upper volume limit.</u>	<u>Facilities that recycle these wastes must comply with the recycling standards in WAC 173-350-210, including notification and reporting.</u>
(5)	<u>Temporary piles of contaminated soils and contaminated dredged material</u>	<p><u>No volume limit.</u></p> <p><u>All contaminated soils and contaminated dredged materials are removed from the site within ninety days.</u></p>	<u>No notification or reporting requirements.</u>

(a) Management of waste in piles identified in Table 320-A must meet the following terms and conditions to maintain their exempt status:

(i) Comply with the performance standards of WAC 173-350-040;

((v)) (ii) Manage the operation to prevent fugitive dust and the attraction of vectors; and

(iii) Allow the department ((and)) or jurisdictional health department ((representatives)) to inspect the ((waste pile)) site at reasonable times ((for the purpose of determining compliance with this chapter; and

(vi) Notify the department and jurisdictional health department thirty days prior to commencing operations of the intent to store inert waste in accordance with this section. Notification shall be in writing, and shall include:

(A) Contact information for the owner or operator;

(B) A general description and location of the facility; and
(C) A description of the inert waste handled at the facility)).

((2)) (3) **Piles used for storage or treatment - Permit requirements - Location ((standards))**. There are no specific location standards for piles subject to this chapter; however, waste piles must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5))).

((3)) (4) **Piles used for storage or treatment - Permit requirements - Design ((standards))**.

((a))) Piles used for storage or treatment of solid waste must be designed so that the facility can be operated to meet the performance standards of WAC 173-350-040. If applicable, the owner or operator of a pile((s)) used for storage or treatment ((shall prepare engineering reports/plans and specifications, including a construction quality assurance plan,

~~((to)) of solid waste must address the following design standards ((of this subsection));~~

(a) The maximum waste capacity, elevation and boundaries of the waste pile (~~((shall))~~ must be provided. All piles (~~((shall))~~ used for storage or treatment regulated under this section must be designed and constructed to meet the following requirements:

- (i) Control public access to prevent illegal dumping and unauthorized access to the facility;
- (ii) Comply with the ~~((uniform))~~ international fire code as implemented through the local fire control agency;
- (iii) ~~((Minimize))~~ Control vectors ~~((harborage to the extent practicable))~~; and
- (iv) Provide all-weather ~~((approach roads and exits))~~ surfaces for vehicles.

(b) In addition to the requirements of (a) of this subsection, the owner or operator of piles of putrescible waste, contaminated soils or contaminated dredged material or waste determined by the jurisdictional health department to ~~((be))~~ likely ~~((to))~~ produce leachate posing a threat to human health or the environment ~~((shall))~~ must prepare engineering reports/plans and specifications of the surface on which the pile(s) will be placed ~~((including))~~. This must include an analysis of the surface under the stresses expected during operations, and the design of the surface water management systems including run-on prevention and runoff conveyance, storage, and treatment. The ~~((piles shall))~~ facility must be designed and constructed to:

(i) Place waste on ~~((a sealed))~~ an impervious surface, such as concrete or asphaltic concrete, to prevent soil and groundwater contamination. The surface ~~((shall))~~ must be durable enough to withstand material handling practices. The jurisdictional health department may at the time of permitting:

(A) Approve other types of surfaces~~((, such as engineered soil,))~~ if the applicant can demonstrate that the proposed surface will prevent soil and groundwater contamination; and

(B) Waive the impervious surface requirement if the applicant can demonstrate how soil and groundwater will be protected by other design features.

(ii) Control run-on and runoff from a twenty-five-year storm~~((, as defined in WAC 173-350-100))~~.

~~((4))) (5) Piles used for storage or treatment - Permit requirements - Documentation.~~

(a) The owner or operator must submit construction documents for any elements described in subsection (4) of this section to the jurisdictional health department for review and approval. The construction documents addressed in subsection (4)(b) of this section must be prepared by a professional engineer registered in the state of Washington, and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features of any impervious surface, such as concrete, asphaltic concrete, or other proposed surface; stormwater management features; and emission control features as required by the permitting air authority where applicable. The engineering report must demonstrate that the proposed design will meet the performance standards of this chapter;

(ii) Scale drawings of the facility including the location and size of waste handling areas, fixed equipment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility including any impervious or other proposed surface, run-on/runoff controls, stormwater management features, and aeration and emission management features as required by a permitting air authority where applicable; and

(iv) A construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility to ensure the facility is constructed in accordance with the approved design.

(b) The owner or operator must provide copies of the construction record drawings for engineered features at the facility and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. The owner or operator must not commence operation in a newly constructed portion of the facility until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering reports/plans and specifications and has approved the construction documentation in writing.

(6) Piles used for storage or treatment - Permit requirements - Operating ((standards)). The owner or operator of piles used for storage or treatment ~~((shall))~~ must:

(a) ~~((Operate the facility to:~~

(i) Control fugitive dust;

~~((iii))) Operate the site in compliance with the performance standards of WAC 173-350-040 and this subsection. In addition, the owner or operator must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan of operation must be available on-site for inspection at the request of the jurisdictional health department. If necessary, the plan may be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:~~

~~((i) A description of the types of waste materials to be handled at the facility;~~

~~((ii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;~~

~~((iii) A description of how waste materials are to be handled on-site, including recycling or recovery, storage, maximum site capacity, methods of adding or removing waste materials from the facility and equipment used, and how operators will ensure adequate dumping capacity at all times;~~

~~((iv) A description of how the owner or operator will ensure the facility is operated in a way to:~~

~~((A) Control litter, dust, and nuisance odors;~~

~~((B) Control rodents, insects, and other vectors;~~

~~((C) Control access to the pile; and~~

~~((iii))) Ensure that nonpermitted waste is not accepted at the facility;~~

~~(iv) Control vector harborage and implement vector control as necessary;~~

~~(v) (D) Ensure that waste piles capable of attracting birds do not pose an aircraft safety hazard((, and~~

~~(vi) For piles of putrescible waste and contaminated soils or dredged material, control nuisance odors)).~~

~~((b)) (v) A description of how operators will inspect and maintain the facility to prevent malfunctions, deterioration, operator errors and discharges that may cause or lead to the release of wastes to the environment or a threat to human health. Inspections ((shall)) must include the ((engineered)) surface on which the piles are placed, and the leachate and stormwater control systems. Inspections ((shall)) must be as needed, but at least weekly, to ensure ((it)) the facility is meeting the operational standards, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process;~~

~~((e)) (vi) A description of how operators will maintain ((daily)) operating records on the amounts (weight((s)) or volume) and the types of waste received ((or)) and removed from the facility, including the form or computer printout used to record this information. Facility annual reports must be maintained in the operating record. Facility inspection reports ((shall)) must be maintained in the operating record, including at least the date of inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. Significant deviations from the plan of operation ((shall)) must be noted in the operating record. Records ((shall)) must be kept for a minimum of five years and ((shall)) must be available upon request by the jurisdictional health department;~~

~~((d) Shall prepare and submit a copy of)) (vii) Safety and emergency plans;~~

~~(viii) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department;~~

~~(ix) If storing or treating contaminated soils or contaminated dredged materials each plan of operation must also include the following:~~

~~(A) Ensure that all soils and dredged materials are sufficiently characterized:~~

~~(I) Prior to storage or treatment so that contaminants not identified, or are at concentrations greater than those listed in the approved plan of operation are not accepted or handled at the facility; and~~

~~(II) Prior to removal to an off-site location so that all soils and dredged material that are not clean soils or clean dredged materials are delivered to a facility that meets the requirements of chapter 70.95 RCW, Solid waste management—Reduction and recycling;~~

~~(B) Maintain operating records that identify the source of contaminated soils and contaminated dredged material received at the facility, contaminants and concentrations contained, and any documentation used to characterize soils and dredged materials. Records must contain end uses, including the location of final placement, for any soils or dredged materials removed from the facility that contain residual contaminants;~~

~~(C) A description of contaminants and concentrations in soils and dredged materials that will be handled at the facility;~~

~~(D) A sampling and analysis plan and other procedures used to characterize soils and dredged materials; and~~

~~(E) Forms used to record the source of contaminated soils or contaminated dredged materials, contaminant concentration and other documentation used to characterize soils and dredged materials, and end uses and the location of final placement for any soils or dredged materials removed from the facility that contain residual contaminants.~~

~~(x) Treatment of contaminated soils and contaminated dredged materials must be performed using a process that reduces or eliminates contaminants and harmful characteristics. Contaminated soils and contaminated dredged materials must not be diluted to meet treatment goals or as a substitute for disposal, except for incidental dilution of minor contaminants.~~

~~(b) Prepare and submit an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report ((shall)) must detail the facility's activities during the previous calendar year and shall include the following information:~~

~~(i) Name and address of the facility;~~

~~(ii) Calendar year covered by the report;~~

~~(iii) Annual ((quantity)) quantities and types of solid waste handled by the facility, including amounts received, amounts removed and the amount of waste remaining at the facility at year's end, in tons; ((and))~~

~~(iv) Destination of waste material transported from the facility for processing or disposal; and~~

~~(v) Any additional information required by the jurisdictional health department as a condition of the permit.~~

~~((e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to the site operating personnel that concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:~~

~~(i) A description of the types of solid waste to be handled at the facility;~~

~~(ii) A description of how solid wastes are to be handled on-site during the facility's life including:~~

~~(A) The maximum amount of waste to be stored or treated in pile(s) at the facility;~~

~~(B) Methods of adding and removing waste from the pile and equipment used;~~

~~(iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;~~

~~(iv) Safety and emergency plans;~~

~~(v) Forms to record weights or volumes; and~~

~~(vi) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.~~

(f) Operate the facility in conformance with the following operating standards when storing or treating contaminated soils or dredged material:

(i) Ensure that all soils and dredged material are sufficiently characterized:

(A) Prior to storage or treatment so that contaminants not identified, or at concentrations greater than those provided in the approved plan of operation are not accepted or handled at the facility; and

(B) Prior to removal to an offsite location so that all soils and dredged material that are not clean soils or dredged material are delivered to a facility that meets the requirements of chapter 70.95 RCW, Solid waste management—Reduction and recycling;

(ii) In addition to the daily operating records in (e) of this subsection, a record of the source of contaminated soils and dredged material received at the facility, contaminants and concentrations contained, and any documentation used to characterize soils and dredged material. Records shall be maintained of end uses, including the location of final placement, for any soils or dredged material removed from the facility that contain residual contaminants;

(iii) In addition to the elements in (e) of this subsection, the plan of operation shall include:

(A) A description of contaminants and concentrations in soils and dredged material that will be handled at the facility;

(B) A sampling and analysis plan and other procedures used to characterize soils and dredged material; and

(C) Forms used to record the source of contaminated soils or dredged material, contaminant concentrations and other documentation used to characterize soils and dredged material, and end uses and the location of final placement for any soils or dredged material removed from the facility that contain residual contaminants;

(iv) Treatment of contaminated soils and dredged materials shall be performed using a process that reduces or eliminates contaminants and harmful characteristics. Contaminated soils and dredged materials shall not be diluted to meet treatment goals or as a substitute for disposal, except for incidental dilution of minor contaminants.

((5)) (7) **Piles used for storage or treatment - Permit requirements - Groundwater monitoring ((requirements)).** There are no specific groundwater monitoring requirements for piles used for storage and treatment subject to this chapter; however, waste piles must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5)).

((6)) (8) **Piles used for storage or treatment - Permit requirements - Closure ((requirements)).** The owner or operator of piles used for storage or treatment ((shall)) must develop, keep, and follow a closure plan that addresses:

(a) ((Notify)) Notification to the jurisdictional health department sixty days in advance of closure(());

(b) Remove of all waste ((shall be removed from the pile at closure)) to a facility that conforms with the applicable regulations for handling the waste(());

(b) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. As a minimum, the closure plan shall include the methods of removing waste.

((7)); and

(c) Methods for removing the waste.

(9) Piles used for storage or treatment - Permit requirements - Financial assurance ((requirements)).

There are no specific financial assurance requirements for piles used for storage or treatment subject to this ((regulation)) chapter; however, waste piles must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5)).

((8)) (10) **Piles used for storage or treatment - Permit application contents.** The owner or operator of piles used for storage or treatment ((shall)) must obtain a permit from the jurisdictional health department. All applications for permits ((shall)) must be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit ((shall)) must contain:

(a) ((The design of fire control features;

(b)) Engineering reports/plans and specifications that address the ((design)) standards of subsections ((3)) (4) and (5) of this section;

(b) A construction quality assurance plan that addresses the requirements of subsection (5) of this section;

(c) A plan of operation meeting the requirements of subsection ((4)) (6) of this section; and

(d) A closure plan meeting the requirements of subsection ((6)) (8) of this section.

((9)) **Piles used for storage or treatment - Construction records.** The owner or operator of piles used for storage or treatment shall provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities shall not commence operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.)

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-330 Surface impoundments and tanks. (1) Surface impoundments and tanks - Applicability.

(a) These standards ((are applicable)) apply to:

(i) Surface impoundments ((holding solid waste)) used to store or treat leachate, liquids, or semisolid wastes associated with solid waste facilities permitted under this chapter including, but not limited to, ((leachate lagoons associated with landfills permitted under this chapter and chapter 173-351 WAC, Criteria for municipal solid waste landfills, and surface impoundments associated with)) limited purpose landfills, recycling facilities, transfer stations, and piles used for storage or treatment, or with landfills permitted under chapter 173-351 WAC, Criteria for municipal solid waste landfills;

(ii) ((Above or below ground)) Tanks with a capacity greater than one thousand gallons ((holding solid waste as-

~~iated with solid waste handling facilities)) used to store or treat leachate, liquids, or semisolid wastes ((or leachate)) associated with solid waste ((handling)) facilities permitted under this chapter including, but not limited to, limited purpose landfills, recycling facilities, transfer stations, and piles used for storage or treatment, or with landfills permitted under chapter 173-351 WAC. Criteria for municipal solid waste landfills; and~~

~~(iii) Piping systems within the boundaries of solid waste facilities that convey solid waste to or from surface impoundments and tanks as described in (a)(i) or (ii) of this subsection.~~

~~(b) These standards ((are not applicable)) do not apply to:~~

~~(i) Surface impoundments ((or)), tanks ((whose facilities are regulated)), or piping systems that are elements of:~~

~~(A) Wastewater treatment systems permitted under local, state or federal water pollution control permits((;~~

~~(iii)), including stormwater permits, when those permits specify requirements equivalent to those of this section for surface impoundments, tanks and piping systems associated with the permitted system; and~~

~~(B) Leachate ((holding ponds)) management features at compost facilities regulated under WAC 173-350-220((;~~

~~(iii)), except that tanks used to store leachate must meet design standards in subsection (4)(b) of this section.~~

~~(ii) Septic tanks ((receiving)) regulated under chapter 246-272A WAC, On-site sewage systems, that receive only domestic sewage ((from facilities at the site)) generated at the solid waste facility:~~

~~(iii) Wastewater features that convey only domestic sewage generated at the solid waste facility to a domestic wastewater facility;~~

~~(iv) Agricultural waste ((managed according to)) operations conducted in accordance with a farm management plan written in conjunction with the local conservation district;~~

~~(v) Underground storage tanks subject to chapter 173-360 WAC, Underground storage tanks; ((and))~~

~~(vi) Tanks used to store moderate risk waste subject to WAC 173-350-360; and~~

~~(vii) Tanks with a capacity of five thousand gallons or less meeting the conditions for exemption under Table 220-A(1), Table 225-A(1), or Table 250-A(1).~~

~~(c) Specific elements of these standards apply to or are referenced as criteria for other activities that are primarily regulated under other sections of this chapter, or by other regulations. Those other activities include, but are not limited to:~~

~~(i) Beneficial use permit exemptions under WAC 173-350-200(3);~~

~~(ii) Composting facility design standards under WAC 173-350-220(4);~~

~~(iii) Land application operating criteria under WAC 173-350-230(6);~~

~~(iv) Anaerobic digester design standards under WAC 173-350-250(4); and~~

~~(v) Standards for facilities storing biosolids or sewage sludge under WAC 173-308-280.~~

(2) Surface impoundments and tanks - Permit exemptions. There are no exemptions for surface impoundments and tanks.

((2))) (3) Surface impoundments and tanks - Permit requirement - Location ((standards)).

~~(a) Surface impoundments and tanks ((shall)) must not be located in unstable areas unless the owner or operator demonstrates that engineering measures have been incorporated in the facility's design to ensure that the integrity of the liners, monitoring system and structural components will not be disrupted. The owner or operator ((shall)) must place the demonstration in the application for a permit.~~

~~((3))) (b) No surface impoundment or tank regulated under this section may be located closer than one hundred feet to an existing drinking water supply well.~~

(4) Surface impoundments and tanks - Permit requirement - Design ((standards)).

~~(a) The owner or operator of a surface impoundment shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the design standards of this subsection. In determining pond capacity, volume calculations shall be based on the facility design, monthly water balance, and precipitation data. All surface impoundments shall)). Surface impoundments and tanks must be designed so that the facility can be operated to meet the performance standards of WAC 173-350-040. The owner or operator of surface impoundments and tanks regulated under this section must prepare engineering reports/plans and specifications to address the following design standards:~~

~~(a) All surface impoundments regulated under this section must be designed and constructed to meet the following requirements:~~

~~(i) Have a liner consisting of a minimum 30-mil thickness geomembrane overlying a structurally stable foundation to support the liners and the contents of the impoundment. (HDPE geomembranes used as primary liners or leak detection liners ((shall)) must be at least 60-mil thick to allow for proper welding.) The jurisdictional health department may approve the use of alternative designs if the owner or operator can demonstrate during the permitting process that the proposed design will prevent migration of solid waste constituents or leachate into the ground or surface waters at least as effectively as the liners described in this subsection.~~

~~(ii) Have a groundwater monitoring system ((which)) that complies with the requirements of WAC 173-350-500 or a leak detection layer. If a leak detection layer is used, it ((shall)) must consist of an appropriate drainage layer underlain by a geomembrane of at least 30-mil thickness.~~

~~(iii) Have embankments and slopes designed to maintain structural integrity under conditions of a leaking liner and capable of withstanding erosion from wave action, overfilling, or precipitation.~~

~~(iv) Have a minimum of eighteen inches of freeboard ((equal to or greater than eighteen inches)) above the design operating capacity to provide protection against wave action, overfilling, or precipitation. Impoundment operating capacity volume calculations must be based on the facility design, monthly water balance, and normal climatic precipitation and evaporation data for the location of the facility. During the permitting process the jurisdictional health department may reduce the freeboard requirement provided that other speci-~~

fied engineering controls are in place which prevent overtopping.

(v) Identify a leakage rate for the primary containment system that will trigger corrective action.

(vi) When a surface impoundment is constructed with a single geomembrane liner, the owner or operator must test the liner ((shall be tested)) using an electrical leak location evaluation capable of detecting a hole (3) three millimeters in its longest dimension or other equivalent postconstruction test method prior to being placed in service. Results of the test ((shall)) must be submitted with the construction record drawings(.

(vi) Surface impoundments that have the potential to impound more than ten acre feet (three million two hundred fifty nine thousand gallons) of liquid measured from the top of the embankment and which would be released by a failure of the containment embankment shall be reviewed and approved by the dam safety section of the department.); and

(vii) ((No)) All surface impoundment liners ((shall)) must be ((constructed such)) designed so that the bottom of the lowest liner component is ((less than)) a minimum of five feet ((one and one half meters)) above the seasonal high level of groundwater, unless the owner or operator can demonstrate during the permitting ((procedure)) process that the proposed liner design will not be affected by contact with groundwater. ((All surface impoundment liners shall be constructed such that the bottom of the lowest component is above the seasonal high level of groundwater.)) For the purpose of this section, groundwater includes any water-bearing unit ((which)) that is horizontally and vertically extensive, hydraulically recharged, and volumetrically significant.

(b) ((The owner or operator of a tank used to store or treat liquid or semisolid wastes meeting the definition of solid waste or leachate, shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to address the following design standards:)) Tanks must be designed and constructed to meet the following requirements:

(i) Tanks and ancillary equipment ((shall)) must be tested for leaks or tightness using a method acceptable to the jurisdictional health department prior to being covered, enclosed or placed in use. If a tank is found to leak or not to be tight, all repairs necessary to remedy the leak(s) in the system ((shall)) must be performed and verified to the satisfaction of the jurisdictional health department prior to the tank being covered or placed in use(.);

(ii) ((Below ground tanks and other tanks where all or portions of the tank are not readily visible shall be designed to resist buoyant forces in areas of high groundwater and shall either be:

(A) Retested for tightness at a minimum of once every two years; or)) Tanks that are constructed or installed to be wholly or partially below ground must:

(A) Be designed to resist buoyant forces in areas of high groundwater;

(B) Be equipped with a leak detection system capable of detecting a release from the tank; and

(C) Have a leakage rate identified for the primary containment system. Leakage above this rate will trigger corrective action.

(iii) For tanks or components in which the external shell of a metal tank or any metal component will be in contact with the soil or water, a determination ((shall)) must be made by a corrosion expert of the type and degree of external corrosion protection that is needed to ensure the integrity of the tank during its operating life. This determination ((shall)) must be included with design information submitted with the permit application;

(iv) Above ground tanks ((shall)) must be equipped with secondary containment ((constructed of, or lined with,)). This may be accomplished by use of a double-walled tank with leak detection, or construction of a separate containment structure using materials compatible with the waste being stored and capable of containing the volume of the largest tank within its boundary plus the precipitation from ((the)) a twenty-five-year storm ((event as defined in WAC 173-350-100)) if the containment structure is exposed to precipitation;

(v) Areas used to load or unload tanks ((shall)) must be designed to contain spills, ((dripping)) drips and accidental releases during loading and unloading of vessels;

(vi) Tanks and piping ((shall)) must be protected from impact by vehicles or equipment through use of curbing, grade separation, bollards or other appropriate means;

(vii) Tanks ((shall)) must be structurally suited for the proposed use; and

(viii) Tanks, valves, fittings and ancillary piping ((shall)) must be protected from failure caused by freezing.

((4)) (c) All facilities which include surface impoundments or tanks regulated under this section must provide controls to limit public access and prevent unauthorized vehicular traffic and illegal dumping of wastes. This must be accomplished by use of artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment. A lockable gate is required at each entry to the facility.

(5) Surface impoundments and tanks - Permit requirements - Documentation.

(a) The owner or operator must submit construction documents for, at a minimum, any elements described in subsection (4) of this section to the jurisdictional health department for review and approval. The construction documents must be prepared by a professional engineer registered in the state of Washington, and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features of the surface impoundment and tank systems, stormwater management features, and emission control features as required by the permitting air authority where applicable. The engineering report must demonstrate that the proposed design will meet the performance standards of this chapter;

(ii) Scale drawings of the facility including the location and size of waste handling areas, fixed equipment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility including any surface impoundment and tank systems, run-on/runoff controls, stormwater management features, and aeration and emission management features as required by a permitting air authority where applicable; and

(iv) A construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility to ensure that facility is constructed in accordance with the approved design.

(b) The owner or operator must provide copies of the construction record drawings for engineered features at the facility and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. The owner or operator must not commence operation in a newly constructed portion of the facility until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/ plans and specifications and has approved the construction documentation in writing.

(6) Surface impoundments and tanks - Permit requirements - Operating ((standards)). The owner or operator of a surface impoundment or tank ((shall)) must:

(a) Operate the facility ((to:

((i))) in compliance with the performance standards of WAC 173-350-040 and this subsection. In addition, the owner or operator must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan must describe the facility's operation and convey to site operating personnel the concept of operation intended by the designer. The plan of operation must be available for inspection at the request of the jurisdictional health department. If necessary, the plan may be modified with the approval, or at the direction, of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of solid waste to be handled at the facility;

(ii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;

(iii) A description of how wastes are handled on-site during the facility's active life, including:

(A) The equipment and procedures that will be used to prevent overfilling of surface impoundments or tanks ((and));

(B) The equipment and procedures that will be used to maintain ((required)) a minimum of eighteen inches of freeboard((;));

((iii))) in surface impoundments; and

(C) The equipment and procedures that will be used to control access to the site((;));

(iii) Control nuisance odors for wastes or liquids with the potential to create nuisance odors; and

(iv) Control birds at impoundments storing wastes capable of attracting birds.

(b) Inspect surface impoundments, tanks and associated piping, pumps and hoses as needed, but at least weekly, to ensure they are meeting the operational standards, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. In addition, surface impoundments shall have regular liner inspections. Their frequency and methods of inspection shall be specified in the plan of operation and shall be based on the type of liner, expected service life of the material, and the site specific ser-

vices conditions. The inspections shall be conducted at least once every five years, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. The jurisdictional health department shall be given sufficient notice and have the opportunity to be present during liner inspections.

(c) Maintain daily operating records on the quantity and the types of waste removed from the surface impoundment or tank)).

(iv) A description of how the owner or operator will ensure the facility is operated in a way to:

(A) Control litter, dust, and nuisance odors; and
(B) Control rodents, insects, and other vectors.

(v) A description of how operators will inspect and maintain the facility to prevent malfunctions, deterioration, operator errors and discharges that may cause or lead to the release of wastes to the environment that could pose a threat to human health, including the inspection form operators will use. Inspections must be conducted as needed, but at least weekly, to ensure that facility is meeting the operational standards unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. Facility inspection reports must be maintained in the operating record. The elements addressed in this description must include:

(A) The groundwater monitoring system, if required;
(B) The overfilling prevention equipment, including details of filling and emptying techniques;
(C) The liners and embankments, tank piping, and secondary containment;
(D) Procedures for cleaning containment structures, including removal of sediment, vegetation, and debris; and
(E) Procedures for testing surface impoundment liners, tanks, and piping systems for leaks.

(vi) A description of how the operators will maintain operating records on the amounts (weight or volume) and types of waste received and removed from the facility, including the form or computer printout used to record this information. Facility annual reports must be maintained in the operating record. Facility inspection reports ((shall)) must be maintained in the operating record, including at least the date of inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. Significant deviations from the plan of operation shall be noted in the operating record. Records ((shall)) must be kept for a minimum of five years and shall be available ((for inspection)) upon request by the jurisdictional health department;

(vii) A description of safety planning and emergency activities, including:

(A) How on-site fire protection will be provided, as determined by the local and state fire control jurisdiction;

(B) How communications sufficient to handle emergencies will be provided between employees working at the facility and management offices, on-site and off-site;

(C) Response procedures in the event of fire, a description of fire protection equipment available on-site and actions to take if there is a fire or explosion; and

(D) Response procedures in the event leaks are detected, or other releases occur.

(viii) Acknowledgment that the owner or operator will inspect surface impoundments, tanks and associated piping, pumps and hoses as needed, but at least weekly, to ensure they are operating as designed and meeting the operational standards, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process;

(ix) Acknowledgment that the owner or operator will inspect surface impoundment liners for leaks no less frequently than every five years. The frequency and methods of inspection must be specified in the plan of operation and must be based on the type of liner, expected service life of the material, and the site-specific service conditions. The jurisdictional health department must be given sufficient notice and have the opportunity to be present during liner inspections;

(x) Acknowledgment that the owner or operator will conduct leak or tightness testing no less frequently than every two years on all below ground tanks and other tanks and piping that have not been equipped with a leak detection system capable of detecting a release from the tank or piping and where any portions of the tank or piping cannot be inspected visually. The jurisdictional health department must be given sufficient notice and have the opportunity to be present during leak or tightness testing events; and

(xi) Other details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

((d) Shall)) (b) Prepare and submit ((a copy of)) an annual report to the jurisdictional health department and the department by April 1st. The annual report ((shall)) must detail the facility's activities during the previous calendar year and ((shall)) must include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Results of groundwater monitoring in accordance with WAC 173-350-500, if applicable;

(iv) Results of leak detection system monitoring, if applicable; ((and))

(v) Results of liner inspections and piping tightness testing, if applicable; and

(vi) Any additional information required by the jurisdictional health department as a condition of the permit.

((e) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

((i) A description of the types of solid waste to be handled at the facility;

((ii) A description of how wastes are handled on site during the facility's active life;

((iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs. This description shall include:

- (A) The groundwater monitoring system, if required;
- (B) The overfilling prevention equipment, including details of filling and emptying techniques;
- (C) The liners and embankments, tank piping and secondary containment;
- (D) Safety and emergency plans;
- (E) The forms used to record weights and volumes; and
- (F) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

((5))) (7) Surface impoundments and tanks - Permit requirements - Groundwater monitoring ((requirements)).

(a) Surface impoundments not equipped with a leak detection layer are subject to the groundwater monitoring requirements of WAC 173-350-500.

(b) Surface impoundments equipped with a leak detection layer and tanks are not subject to the groundwater monitoring requirements of this chapter; however, surface impoundments must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5))).

((6))) (8) Surface impoundments and tanks - Permit requirements - Closure ((requirements)). The owner or operator of a surface impoundment or tank ((shall)) must develop, keep, and follow a closure plan that includes:

((Notify)) Notification to the jurisdictional health department sixty days in advance of closure((.));

((b) Removal of all waste material from the surface impoundment or tank ((shall be removed)) to a facility that conforms with the applicable regulations for handling the waste; and

(c) Methods of removing waste material.

((b) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the methods of removing waste.

((7))) (9) Surface impoundments and tanks - Permit requirements - Financial assurance ((requirements)). There are no specific financial assurance requirements for surface impoundments or tanks subject to this chapter; however, surface impoundments and tanks must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5))).

((8))) (10) Surface impoundments and tanks - Permit application contents. ((a)) The owner or operator of a surface impoundment or tank ((shall)) must obtain a solid waste permit from the jurisdictional health department, either as a separate permit or in compliance with subsection (11)(a) of this section. All applications for permits ((shall)) must be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit ((shall)) involving surface impoundments or tanks must contain:

((i)) (a) Engineering reports/plans and specifications that address the ((design)) standards of subsections ((3))) (4) and (5) of this section;

((ii)) (b) A construction quality assurance plan that addresses the requirements of subsection (5) of this section;

((c) A plan of operation meeting the requirements of subsection ((4))) (6) of this section;

((iii)) (d) For surface impoundments not equipped with a leak detection layer, hydrogeologic reports and plans that address the requirements of subsection ((5)) (7) of this section;

((iv)) (e) A closure plan meeting the requirements of subsection ((6)) (8) of this section; and

(f) Documentation that all owners of property located within one hundred feet of the surface impoundment or tank have been notified that the proposed facility may impact their ability to construct water wells, in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells.

((9)) (11) **Surface impoundments and tanks - Construction records.** The owner or operator of a surface impoundment or tank shall provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities shall not commence operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

(12) Surface impoundments and tanks - Relationship to other permits.

(a) Permits for other types of solid waste facilities with surface impoundments or tanks to which this section is applicable must address the applicable requirements of this section in addition to requirements for the other types of solid waste handling.

(b) Surface impoundments that have the potential to impound more than ten-acre feet (three million two hundred fifty-nine thousand gallons) of liquid measured from the top of the embankment and would be released by a failure of the containment embankment must also be reviewed and approved by the dam safety section of the department.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-350 Waste tire storage ((and transportation)). (1) Waste tire storage ((and transportation)) - Applicability. ((This section is applicable to all:))

(a) These standards apply to facilities that store waste tires in quantities ((of)) greater than eight hundred automobile tires or ((the combined weight equivalent of sixteen thousand pounds)) greater than eight tons of all types of waste tires. ((This section is not applicable))

(b) These standards do not apply to the storage of waste tires ((in an enclosed building or)) in mobile containers used to transport waste tires. For purposes of this section, mobile containers must be used primarily for the transport of tires and must be moved between the storage facility and off-site annually.

((b)) Persons engaged in the business of transporting waste tires except for:

(i) Any person transporting five tires or less;

((ii) Any person transporting used tires back to a retail outlet for repair or exchange;

((iii) Any waste hauler regulated by chapter 81.77 RCW, Solid waste collection companies;

((iv) The United States, the state of Washington or any local government, or contractors hired by these entities, when involved in the cleanup of illegal waste tire piles; and

((v) Tire retailers associated with retreading facilities who use company owned vehicles to transport waste tires for the purposes of retreading or recycling.)

(2) Waste tire storage and transportation - Transportation prohibitions and enforcement.

(a) No person shall enter into a contract for transportation of waste tires with an unlicensed waste tire transporter.

(b) Waste tires shall only be delivered to a facility that has obtained the required permits or licenses for storage, processing, or disposal of waste tires.

(c) Any person subject to this section who transports or stores waste tires without a valid waste tire carrier license or waste tire storage license issued by the Washington state department of licensing shall be subject to the penalty provisions of RCW 70.95.560.

(3) Waste tire storage and transportation - Carrier license requirements.

(a) All persons subject to this section engaged in the business of transporting waste tires are required to obtain a waste tire carrier license from the Washington state department of licensing.

(b) Application forms for a waste tire carrier license will be available at unified business identifier service centers located throughout the state. Unified business identifier service locations include:

(i) The field offices of the department of revenue and the department of labor and industries;

(ii) The tax offices of employment security;

(iii) The Olympia office of the secretary of state; and

(iv) The business license service office of the Washington state department of licensing.

(c) An application for a waste tire carrier license and a cab card for one vehicle shall include a two hundred fifty dollar application fee, fifty dollars of which shall be nonrefundable. Each additional vehicle cab card to be used by the licensee requires an additional fifty dollar fee. The application shall include:

(i) A performance bond in the sum of ten thousand dollars in favor of the state of Washington; or

(ii) In lieu of the bond, an applicant may submit other financial assurance acceptable to the department.

(d) The refundable portion of application fees may be returned to the applicant if the application is withdrawn before the department has approved or denied the application.

(e) A waste tire carrier license shall be valid for one year from the date of approval.

(4)) (2) Waste tire storage - Permit exemptions. There are no exemptions for waste tire storage.

(3) Waste tire storage ((and transportation)) - Permit requirements - Location ((standards)). There are no specific location standards for waste tire storage sites subject to this chapter; however, waste tire storage sites must meet the

((requirements provided under)) performance standards of WAC 173-350-040(((5))).

((5))) **(4) Waste tire storage ((and transportation)) - Permit requirements - Design ((standards)).** Waste tire storage facilities must be designed so that the facility can be operated to meet the performance standards of WAC 173-350-040. The owner or operator of a waste tire storage ((area shall)) facility must prepare engineering reports/plans and specifications to address the design standards of this subsection. The maximum number of tires to be stored on-site and the individual ((pile)) waste tire storage locations and ((sized shall)) sizes must be provided. ((The)) Facility ((shall be designed so that)) design requirements are as follows:

(a) Unless otherwise specified in fire code, waste tires stored inside an enclosed building or structure must be stored so that:

(i) Storage piles or racks adjacent to or along one wall do not extend beyond twenty-five feet from the wall, do not exceed fifty feet in length along the wall, and do not exceed thirty feet in height;

(ii) Storage piles or racks not adjacent to or along a wall do not exceed fifty feet in width and do not exceed thirty feet in height;

(iii) Aisles between storage piles or racks are no less than eight feet in width; and

(iv) Buildings and structures where the designated area for the storage of tires exceeds twenty thousand cubic feet in space are equipped throughout with an automatic sprinkler system.

(b) Unless otherwise specified in fire code, waste tires stored outside must be stored so that:

((a))) (i) The size of any individual pile of waste tires ((shall be)) is limited to:

((A)) A maximum area of five thousand square feet;

((B)) A maximum volume of fifty thousand cubic feet; and

((C)) A maximum height of ten feet((b));
((b)).

(ii) A clear space of at least forty feet between each pile of waste tires ((shall be)) is provided. The clear space ((shall)) must not contain flammable or combustible material or vegetation;

((e))) (iii) Tire storage ((shall)) is not ((be)) located within ((ten)) fifty feet of any property line or building ((and shall not exceed six feet in height within twenty feet of any property line or building; and

((d)).

(iv) Tire storage is not located within one hundred feet of brush or forested areas;

(v) Where the total volume of waste tires stored on-site is more than one hundred fifty thousand cubic feet, storage arrangement must meet the following:

(A) Individual storage piles comply with size and separation requirements outlined in (b)(i) through (iv) of this subsection;

(B) Adjacent storage piles are considered a group, and the aggregate volume of storage piles in a group do not exceed one hundred fifty thousand cubic feet; and

(C) Separation between groups is at least seventy-five feet.

(vi) Waste tire storage is not located under bridges, elevated trestles, elevated roadways, or elevated railroads.

(c) Public access ((shall)) to any waste tire storage facility must be limited.

(5) Waste tire storage - Permit requirements - Documentation.

(a) The owner or operator must submit construction documents for, at a minimum, any elements described in subsection (4) of this section to the jurisdictional health department for review and approval. The construction documents must be prepared by a professional engineer registered in the state of Washington, and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features where applicable. The engineering report must demonstrate that the proposed design will meet the performance standards of WAC 173-350-040; and

(ii) Scale drawings of the facility including the location and size of waste handling areas, fixed equipment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation.

(6) Waste tire storage ((and transportation)) - Permit requirements - Operating ((standards)). The owner or operator of a waste tire storage facility ((shall)) must:

(a) Operate the ((facility to:

(i) Have communication capabilities to immediately summon fire, police, or other emergency service personnel in the event of an emergency;

(ii) Control public access in a manner sufficient to prevent arson, unauthorized vehicular traffic and illegal dumping of wastes;

(iii) Manage waste tires in such a way that it is protected from any material or conditions which may cause them to ignite;

(iv) Limit the total quantity of waste tires stored on-site at any time to the amount permitted by the jurisdictional health department;

(v) Provide on-site fire control equipment sufficient to extinguish any fire reasonably possible from one individual pile of waste tires. Fire control equipment may include, but is not limited to:

(A) Automatic sprinkler protection;

(B) Fire hydrants, hoses and ancillary equipment;

(C) Portable fire extinguishers; and

(D) Material handling equipment capable of moving tires during firefighting operations;

(vi) Provide vector control; and

((vii))) site in compliance with the performance standards of WAC 173-350-040 and this subsection. In addition, the owner or operator must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan of operation must be available for inspection at the request of the jurisdictional health department. If necessary, the plan may be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of waste tires to be handled at the facility;

(ii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;

(iii) A description of how waste tires are to be handled on-site during the facility's life, including:

(A) Routine storage;

(B) Procedures for ensuring that all waste tires received by the facility have been transported in accordance with the waste tire carrier section in WAC 173-350-355;

(C) Maximum site capacity; and

(D) Methods of adding or removing waste tires from the facility and equipment used.

(iv) A description of how the owner or operator will ensure the facility is operated in a way to:

(A) Control litter, dust, and nuisance odors;

(B) Control rodents, insects, and other vectors;

(C) Control public access in a manner sufficient to prevent arson, unauthorized vehicular traffic, illegal dumping of wastes, and to prohibit scavenging;

(D) Prohibit open burning and manage waste tires in a way to protect them from any material or conditions that may cause them to ignite;

(E) Provide attendant(s) on-site during hours of operation;

(F) Provide a sign at the site entrance that identifies the facility and shows at a minimum the name of the site;

(G) Immediately summon fire, police, or emergency service personnel in the event of an emergency;

(H) Limit the total quantity of waste tires stored on-site at any time to the amount permitted by the jurisdictional health department;

(I) Provide on-site fire control equipment sufficient to extinguish any fire reasonably possible from one individual pile of waste tires. Fire control equipment may include, but is not limited to, automatic sprinkler protection, fire hydrants, fire hoses, ancillary firefighting equipment, portable fire extinguishers, and material-handling equipment capable of moving tires during firefighting operations; and

(J) Issue written or computer printed receipts upon receiving loads of waste tires(;

(b)).

(v) A description of how operators will inspect and maintain the facility to prevent ((malfunctions,)) deterioration((, operator errors and discharges that may lead to)) or the release of wastes to the environment ((or cause)) that could pose a threat to human health, including the inspection form operators will use. Inspections ((shall)) must be as needed, but at least weekly, ((to ensure it is meeting the operational standards,)) unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process(;

((e)). Facility inspection reports must be maintained in the operating record;

((vi) A description of how operators will maintain ((daily)) operating records ((including:

((i) The numbers of tires received and removed from the site. Quantities may be measured by:

((A) Actual number of tires; or

((B) Weight, provided the operator documents the approximate number of tires included in each load; or

((C) Volume in cubic yards, provided the operator documents the approximate number of tires included in each load;

((ii) Facility inspection reports;

((iii) Significant deviations from the plan of operation;

((iv) Records shall be kept for a minimum of five years and shall be available upon request by the jurisdictional health department;

((d))) on the amounts (number of tires, weight of tires in tons, or volume of tires in cubic yards) and types of waste received and removed from the facility, including the form or computer printout used to record this information. Weight and volume are adequate measurements provided that the operator documents the approximate number of tires included in each load. Facility annual reports must be maintained in the operating record. Facility inspection reports must be maintained in the operating record, including at least the date of inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. Significant deviations from the plan of operation must be noted in the operating record. Records must be kept for a minimum of five years and must be available upon request by the jurisdictional health department;

((vii) Safety, fire, and emergency plans addressing the following:

((A) Procedures for the use of communications equipment to immediately report emergencies to the fire department, police, or emergency service personnel;

((B) A list of all emergency equipment at the facility including the location and a brief description of its capabilities;

((C) Procedures for firefighting and the operation of fire control equipment;

((D) Employee training and emergency duty assignments; and

((E) Procedures for and frequency of fire drills.

((viii) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

((b)) Prepare and submit ((a copy of)) an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report ((shall)) must detail the ((facility)) facility's activities during the previous calendar year and ((shall)) must include the following information:

((i) Name and address of the facility;

((ii) Calendar year covered by the report;

((iii) Annual quantity of tires received, in tons;

((iv) Annual quantity of tires removed from the facility and ((end use)) where they went, in tons;

((v) Total tons of tires remaining at the facility at year's end;

((vi) Applicable financial assurance reviews and audit findings in accordance with WAC 173-350-600; and

((vii) Any additional information required by the jurisdictional health department as a condition of the permit((;

((e)) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the

designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

- (i) A description of how waste tires are to be handled on-site during the active life including:
 - (A) Transportation and routine storage; and
 - (B) Procedures for ensuring that all waste tires received by the facility have been transported in accordance with this section;
- (ii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;
- (iii) Safety, fire and emergency plans addressing the following:
 - (A) Procedures for the use of communications equipment to immediately report emergencies to the fire department, police, or emergency service personnel;
 - (B) A list of all emergency equipment at the facility including the location and a brief description of its capabilities;
 - (C) Procedures for firefighting and the operation of fire control equipment;
 - (D) Employee training and emergency duty assignments;
 - (E) Procedures for and frequency of fire drills;
- (iv) The forms used to record weights and volumes; and
- (v) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department).

(7) **Waste tire storage ((and transportation)) - Permit requirements - Groundwater monitoring ((requirements)).** There are no specific groundwater monitoring requirements for waste tire storage sites; however, waste tire storage sites must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5)).

(8) **Waste tire storage ((and transportation)) - Permit requirements - Closure ((requirements)).**

(a) The owner or operator of a facility that stores waste tires ((shall)) must develop, keep, and follow a closure plan that includes:

((a)) Notify) (i) Notification to the jurisdictional health department((,)) and ((where applicable)) the financial assurance instrument provider, one hundred eighty days in advance of closure;

((b)) Commencement implementation of the closure plan) (ii) Commencement of closure, in part or whole, within thirty days after receipt of the final waste tires;

((c)) Provide) (iii) Projected time intervals that identify when partial closure is to be implemented;

(iv) Closure cost estimates and projected fund withdrawal intervals for the associated closure costs, from the approved financial assurance instrument;

(v) Methods of waste tire removal; and

(vi) Submittal of a certification that the site has been closed in accordance with the approved closure plan to the jurisdictional health department((, and

((d)) Develop, keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum the closure plan shall include:

(i) Projected time intervals that identify when partial closure is to be implemented, and identify closure cost estimates and projected fund withdrawal intervals for the associated closure costs, from the approved financial assurance instrument; and

(ii) Methods of waste tire removal)).

((e))) (b) The jurisdictional health department ((shall)) must notify the owner or operator, the department, and the financial assurance instrument provider, of the date when the jurisdictional health department has verified that the facility has been closed in accordance with the specifications of the approved closure plan.

(9) **Waste tire storage ((and transportation)) - Permit requirements - Financial assurance ((requirements)).**

(a) The owner or operator ((shall)) must establish a financial assurance mechanism in accordance with WAC 173-350-600 for closure in accordance with the approved closure plan. The funds ((shall)) must be sufficient for hiring a third party to remove the maximum number of tires permitted to be stored at the facility and deliver the tires to a facility permitted to accept the tires.

(b) Nothing in this section ((shall)) may prohibit the application of funds from an existing bond as required under RCW 70.95.555, to the total amount required for financial assurance, ((provided)) if the bond can be used for the activities described in (a) of this subsection.

(c) No owner or operator ((shall)) may commence or continue operations at the site until a financial assurance instrument has been provided for closure activities in conformance with WAC 173-350-600.

(10) **Waste tire storage ((and transportation)) - Solid waste permit requirements. The owner or operator shall) - Permit application contents.** A person who stores more than eight hundred automobile tires or greater than eight tons of all types of waste tires must obtain a solid waste permit from the jurisdictional health department. All applications for permits ((shall)) must be in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit ((shall)) must contain:

(a) Engineering reports/plans and specifications that address the design standards of subsections (4) and (5) of this section;

(b) A plan of operation addressing the requirements of subsection (6) of this section;

(c) A closure plan meeting the requirements of subsection (8) of this section; and

(d) Documentation as needed to meet the financial assurance requirements of subsection (9) of this section.

(11) **Waste tire storage ((and transportation)) - Storage site license requirements.**

(a) ((In order to)) An owner or operator of a waste tire storage facility must obtain a waste tire storage license((,)). The facility owner or operator ((shall)) must first obtain a solid waste handling permit for the storage of waste tires from the jurisdictional health department.

(b) Application forms for a waste tire storage site owner license are available at unified business identifier service locations located throughout the state. Unified business identifier service locations include:

(i) The field offices of the Washington state department of revenue and the Washington state department of labor and industries;

(ii) The tax offices of Washington state department of employment security;

(iii) The Olympia office of the secretary of state; and

(iv) The business license service office of the Washington state department of ((licensing)) revenue.

(c) An application for a waste tire storage site owner license ((shall)) must include ((a two hundred fifty dollar)) an application fee determined by the Washington state department of revenue for each facility((, fifty dollars of which shall be nonrefundable. The)). A refundable portion of application fees may be returned to the applicant under the following conditions:

(i) The department determines that a solid waste permit would meet the substantive requirements of RCW 70.95.555 and determines that a license is not required; or

(ii) The applicant withdraws the application before the department has approved or denied the application.

(d) A waste tire storage site license ((shall be)) is valid for one year from the date of approval and must be renewed annually.

(12) Waste tire storage prohibitions and enforcement.

(a) Waste tires may only be delivered to a facility that has obtained the required permits or licenses for storage, processing, or disposal of waste tires.

(b) Any person subject to this section who stores waste tires without a valid waste tire storage license issued by the Washington state department of revenue is subject to the enforcement provisions of RCW 70.95.560.

NEW SECTION

WAC 173-350-355 Waste tire transportation. (1)

Waste tire transportation - Applicability. These standards apply to: Persons engaged in the business of transporting waste tires except for:

(a) Any person transporting five tires or less;

(b) Any person transporting used tires back to a retail outlet for repair or exchange;

(c) Any waste hauler regulated by chapter 81.77 RCW, Solid waste collection companies;

(d) The United States, the state of Washington, or any local government, or contractors hired by these entities, when involved in the cleanup of illegal waste tire piles; and

(e) Tire retailers associated with retreading facilities who use company-owned vehicles to transport waste tires for the purposes of retreading or recycling.

(2) Waste tire transportation - Carrier license requirements.

(a) All persons subject to this section engaged in the business of transporting waste tires are required to obtain a waste tire carrier license from the Washington state department of revenue.

(b) Application forms for a waste tire carrier license will be available at unified business identifier service centers located throughout the state. Unified business identifier service locations include:

(i) The field offices of the Washington state department of revenue and the Washington state department of labor and industries;

(ii) The tax offices of Washington state department of employment security;

(iii) The Olympia office of the secretary of state; and

(iv) The business license service office of the Washington state department of revenue.

(c) An application for a waste tire carrier license and a cab card for one vehicle must include an application fee determined by the Washington state department of revenue. Each additional vehicle cab card to be used by the licensee requires an additional fee determined by the Washington state department of revenue. The application must include:

(i) A performance bond in the sum of ten thousand dollars in favor of the state of Washington; or

(ii) In lieu of the bond, an applicant may submit other financial assurance acceptable to the department.

(d) A refundable portion of application fees may be returned to the applicant if the application is withdrawn before the department has approved or denied the application.

(e) A waste tire carrier license is valid for one year from the date of approval and must be renewed annually.

(3) Waste tire transportation - Prohibitions and enforcement.

(a) No person may enter into a contract for transportation of waste tires with an unlicensed waste tire transporter.

(b) Waste tires may only be delivered to a facility that has obtained the required permits or licenses for storage, processing, or disposal of waste tires.

(c) Any person subject to this section who transports waste tires without a valid waste tire carrier license issued by the Washington state department of revenue is subject to the enforcement provisions of RCW 70.95.560.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-360 Moderate risk waste handling. (1)

Moderate risk waste handling - Applicability.

(a) ((This section is applicable)) These standards apply to:

(i) Any facility that accepts segregated solid waste categorized as moderate risk waste (MRW), as defined in WAC 173-350-100;

(ii) Persons transporting MRW ((using only a bill of lading (MRW that is not shipped using a uniform hazardous waste manifest))) who store MRW for more than ten days at a single location; and

(iii) Mobile systems and collection events, as defined in WAC 173-350-100.

(b) ((This section is not applicable)) These standards do not apply to:

(i) Persons transporting MRW managed in ((acee-
danee)) compliance with the requirements for shipments of manifested dangerous waste under WAC 173-303-240;

(ii) Universal waste regulated under chapter 173-303 WAC, Dangerous waste regulations; and

(iii) Conditionally exempt small quantity generators managing their own wastes in compliance with the perfor-

mance standards of WAC 173-350-040 and 173-303-070 (8)(b).

(2) ((*Mobile systems and collection events:*)) **Moderate risk waste handling - Permit exemptions.** In accordance with RCW 70.95.305, the operation of mobile systems ((and)), collection events ((are subject solely to the requirements of (a) through (n) of this subsection and)), limited MRW facilities, product take-back centers, and law pharmaceutical collection programs managed in accordance with the terms and conditions in Table 360-A of this section are exempt from solid waste handling permitting. ((An owner or operator that does not comply)) If a facility does not operate in compliance with the terms and conditions ((of)) established for an exemption under this subsection ((is required to obtain a permit from the jurisdictional health department and shall comply with the applicable requirements for a moderate risk waste handling facility)), the facility may be subject to the permitting requirements for solid waste handling under this chapter. In addition, violations of the terms and conditions of Table 360-A and this subsection may be subject to the ((penalty)) enforcement provisions of RCW 70.95.315. ((Owners and operators of mobile systems and collection events shall:

(a) Notify the department and the jurisdictional health department of the intent to operate a mobile system or collection event at least thirty days prior to commencing operations. The notification shall include a description of the types and quantities of MRW to be handled;

(b) Manage mobile systems or collection events in compliance with the performance standards of WAC 173-350-040;

(c) Record the weights or gallons of each type of MRW collected, number of households and conditionally exempt small quantity generators served, and type of final disposition (e.g., reuse, recycled, treatment, energy recovery, or disposal). Records shall be maintained for a period of five years and will be made available to the department or jurisdictional health department on request;

(d) Ensure that the MRW at a mobile system or collection event is handled in a manner that:

(i) Prevents a spill or release of hazardous substances to the environment;

(ii) Prevents exposure of the public to hazardous substances; and

(iii) Results in delivery to a facility that meets the performance standards of WAC 173-350-040;

(e) Ensure that incompatible wastes are not allowed to come into contact with each other;

(f) Ensure that containers holding MRW remain closed except when adding or removing waste in order to prevent a release of MRW through evaporation or spillage if overturned;

(g) Ensure that containers holding MRW have legible labels and markings that identify the waste type;

(h) Ensure that containers holding MRW are maintained in good condition (e.g., no severe rusting or apparent structural defects);

(i) Ensure that personnel are familiar with the chemical nature of the materials and the appropriate mitigating action necessary in the event of fire, leak or spill;

(j) Control public access and prevent unauthorized entry;

(k) Prepare and submit a copy of an annual report to the department and the jurisdictional health department by April 1st on forms supplied by the department. The annual report shall detail the collection activities during the previous calendar year and shall include the following information:

(i) Name of owner or operator, and locations of all collection sites;

(ii) Calendar year covered by the report;

(iii) Annual quantity and type of MRW, in pounds or gallons by waste type;

(iv) Number of households and CESQGs served;

(v) Type of final disposition (e.g., reuse, recycled, treatment, energy recovery, or disposal); and

(vi) Any additional information required by written notification of the department;

(l) Allow inspections by the department or the jurisdictional health department at reasonable times;

(m) Notify the department and the jurisdictional health department of any failure to comply with the terms and conditions of this subsection within twenty-four hours; and

(n) Mobile collection systems using truck or trailers with concealed construction, permanently attached to a chassis may require a commercial coach insignia if subject to chapter 296-150C WAC, administered by the department of labor and industries.

(3) **Limited MRW facilities and product take-back centers.** In accordance with RCW 70.95.305, the operation of limited MRW facilities is subject solely to the requirements of (a) through (i) of this subsection and is exempt from solid waste handling permitting. Product take-back centers are only subject to (b), (c) and (f) of this subsection. An owner or operator that does not comply with the terms and conditions of this subsection is required to obtain a permit from the jurisdictional health department and shall comply with the applicable requirements for an MRW facility. In addition, violations of the terms and conditions of this subsection may be subject to the penalty provisions of RCW 70.95.315. Owners and operators of limited MRW facilities shall:

(a) Notify the department and the jurisdictional health department within thirty days prior to operation of the intent to operate a limited MRW facility with a description of the type and quantity of MRW to be handled;

(b) Ensure waste at a limited MRW facility or product take-back center is handled in a manner that:

(i) Prevents a spill or release of hazardous substances to the environment;

(ii) Prevents exposure of the public to hazardous substances; and

(iii) Results in delivery to a facility that meets the performance standards of WAC 173-350-040;

(e) Ensure that containers and tanks holding MRW are maintained in good condition (e.g., no severe rusting or apparent structural defects);

(d) Provide secondary containment for containers and tanks capable of storing fifty-five gallons or more of liquid MRW;

(e) Ensure the facility meets the performance standards of WAC 173-350-040;

(f) Notify the department and the jurisdictional health department of any failure to comply with the terms and conditions of this subsection within twenty-four hours of knowledge of an incident;

(g) Allow inspections by the department and jurisdictional health department at reasonable times;

(h) Maintain records of the amount and type of MRW received, and the final disposition of the MRW by amount and type; and

(i) Prepare and submit a copy of an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report

shall cover the facility's activities during the previous calendar year and shall include the following information:

(A) Name and address of the facility;

(B) Calendar year covered by the report;

(C) Annual quantity and type of MRW, in pounds or gallons by waste type;

(D) Number of households and CESQGs served;

(E) Type of final disposition (e.g., reuse, recycled, treatment, energy recovery, or disposal); and

(F) Any additional information required by written notification of the department.

(4))

Table 360-A

Terms and Conditions for Solid Waste Permit Exemptions

Terms and Conditions for Permit Exemption	Mobile System*	Collection Event*	Limited MRW Facility	Product Take-Back Center	Pharmaceutical Collection Program
(a) Notify the department and jurisdictional health department of the intent to operate at least thirty days prior to commencing operations. The notification must include a description of the types and quantities of MRW to be handled;	X	X	X		
(b) Manage MRW in compliance with the performance standards of WAC 173-350-040;	X	X	X	X	X
(c) Maintain records of the amount and type of MRW received, number of households and/or conditionally exempt small quantity generators served, and the type of final disposition (e.g., reuse, recycled, treatment, energy recovery, incineration, or landfilling). Records must be maintained for five years and must be made available to the department or jurisdictional health department on request;	X	X	X**		
(d) Ensure MRW is handled in a manner that:					
(i) Prevents a spill or release of hazardous substances to the environment;					
(ii) Prevents exposure of the public to hazardous substances; and	X	X	X	X	X
(iii) Results in delivery to a facility that meets the performance standards of WAC 173-350-040;					
(e) Ensure that incompatible wastes are not allowed to come into contact with each other;	X	X		X	
(f) Ensure that containers holding MRW remain closed except when adding or removing waste in order to prevent a release of MRW through evaporation or spillage if overturned;	X	X	X		
(g) Ensure that containers holding MRW have legible labels and markings that identify the waste type;	X	X	X	X	
(h) Ensure that containers holding MRW are maintained in good condition (e.g., no severe rusting or apparent structural defects);	X	X	X	X	

Terms and Conditions for Permit Exemption	Mobile System*	Collection Event*	Limited MRW Facility	Product Take-Back Center	Pharmaceutical Collection Program
(i) Ensure that designated personnel are familiar with the chemical nature of the materials and the appropriate mitigating action necessary in the event of fire, leak, or spill;	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
(j) Control public access and prevent unauthorized entry;	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
(k) Prepare and submit an annual report to the department and the jurisdictional health department by April 1st on forms supplied by the department. The annual report must detail the collection activities during the previous calendar year and must include the following:					
(i) Name and addresses of all collection sites; (ii) Calendar year covered by the report; (iii) Annual quantity and type of MRW collected, in pounds or gallons, by waste type; (iv) Number of households and CESQGs served annually; (v) Type of final disposition (for example, reuse, recycled, treatment, energy recovery, incineration, or landfilling) by waste type of MRW; and (vi) Any additional information required by the department;	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> **		
(l) Allow inspections by the department or jurisdictional health department at reasonable times;	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
(m) Notify the jurisdictional health department and the department of any spills or discharges of MRW to the environment within twenty-four hours of knowledge of an incident;	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
(n) Mobile collection systems using trucks or trailers with concealed construction, permanently attached to a chassis may require a commercial coach insignia if subject to chapter 296-150C WAC, Commercial coaches, administered by the department of labor and industries; and	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
(o) Provide secondary containment for containers and tanks capable of storing fifty-five gallons or more of liquid MRW.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

* The requirements of these columns do not apply to pharmaceutical collection programs conducted as a mobile system or collection event.

** Limited MRW facilities are NOT required to keep track of number of households and CESQGs served annually.

(3) Moderate risk waste facilities - Permit requirements - Location ((standards)). There are no specific location standards for moderate risk waste facilities subject to this chapter; however, moderate risk waste facilities must meet the ((requirements provided under)) performance standards of WAC 173-350-040(((5))).

((5))) (4) Moderate risk waste facilities - Permit requirements - Design ((standards)). ((a))) Moderate risk

waste facilities (MRW) must be designed so that the facility can be operated to meet the performance standards of WAC 173-350-040. The owner or operator of a ((moderate risk waste)) MRW facility ((shall)) must prepare engineering reports/plans and specifications((, including a construction quality assurance plan,)) to address the ((following)) design standards of this subsection. ((Each MRW facility shall:))

(a) All MRW facilities regulated under this subsection must be designed and constructed to meet the following requirements:

(i) Be surrounded by a fence, walls, or natural features and provided with a lockable door or gate to control public and animal access;

(ii) Be constructed of materials that are chemically compatible with the MRW handled;

(iii) Provide secondary containment to capture and contain releases and spills, and facilitate timely cleanup in areas where MRW is handled. All secondary containment ((shall)) must:

(A) Have sufficient capacity to:

(I) Contain ten percent of the volume of all containers or tanks holding liquid or the total volume of the largest container holding liquids in the area, whichever is greater;

(II) Provide additional capacity to hold the precipitation from a twenty-five-year storm ((as defined in WAC 173-350-100)), in uncovered areas; and

(III) Provide additional capacity to hold twenty minutes of flow from an automatic fire suppression system, where ((such)) a suppression system exists((;)).

(B) Be segregated ((for)) to prevent incompatible wastes from coming into contact with one another; and

(C) ((Have a base underlying the containers which is)) For a floor or other structure that serves as the secondary containment, be free of cracks or gaps and ((is)) sufficiently impervious to contain leaks, spills, accumulated precipitation, or fire suppression materials until the collected material is detected and removed. The ((base shall)) floor must be sloped or the containment system ((shall)) must otherwise be designed and operated to drain and remove liquids resulting from leaks, spills, precipitation, or fire suppression unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(iv) Be accessible by all-weather roads;

(v) Prevent run-on and control runoff from a twenty-five-year storm((, as defined in WAC 173-350-100));

(vi) Provide a sign at the site entrance that identifies the facility and shows at ((least)) a minimum the name of the site((, and if applicable, hours during which the site is open for public use, and acceptable materials));

(vii) Provide sufficient ventilation to remove toxic vapors and dust from the breathing zone of workers and prevent the accumulation of flammable or combustible gases or fumes that could present a threat of fire or explosion;

(viii) Be constructed with explosion-proof electrical wiring, fixtures, lights, motors, switches and other electrical components as required by local fire code or the department of labor and industries;

(ix) Provide electrical grounding in areas where flammable and combustible liquids are consolidated to allow for bonding to consolidation equipment; and

(x) Provide protection of ((the)) MRW ((handling areas)) from wind((, rain or snow)) and precipitation through structural or operational measures.

(b) The owner or operator of a tank used to store or treat MRW ((shall prepare engineering reports/plans and specifications, including a construction quality assurance plan, to)) must address the following design standards:

(i) Tanks and ancillary equipment ((shall)) must be tested for tightness using a method acceptable to the jurisdictional health department prior to being covered, enclosed or placed in use. If a tank is found not to be tight, all repairs necessary to remedy the leak(s) in the system ((shall)) must be performed and verified to the satisfaction of the jurisdictional health department prior to the tank being covered or placed in use;

(ii) Below ground tanks ((shall)) must be designed to resist buoyant forces in areas of high groundwater and ((shall)) must either be:

(A) Retested for tightness at a minimum of once every two years; or

(B) Equipped with a leak detection system capable of detecting a release from the tank((;)).

(iii) For tanks or components in which the external shell of a metal tank or any metal component will be in contact with the soil or water, a determination ((shall)) must be made by a corrosion expert of the type and degree of external corrosion protection that is needed to ensure the integrity of the tank during its operating life. This determination ((shall)) must be included with design information submitted with the permit application;

(iv) Areas used to load or unload tanks ((shall)) must be designed to contain spills, ((dripping)) drips and accidental releases during loading and unloading of vessels;

(v) Tanks and piping ((shall)) must be protected from impact by vehicles or equipment through use of curbing, grade separation, bollards, or other appropriate means;

(vi) Tanks ((shall)) must be structurally suited for the proposed use; and

(vii) Tanks, valves, fittings and ancillary piping ((shall)) must be protected from failure caused by freezing.

(c) Prefabricated structures with concealed construction ((shall)) must meet the requirements of chapter 296-150F WAC, Factory-built housing and commercial structures, administered by the department of labor and industries.

(5) Moderate risk waste facilities - Permit requirements - Documentation.

(a) The owner or operator must submit construction documents for, at a minimum, any elements described in subsection (4) of this section to the jurisdictional health department for review and approval. The construction documents must be prepared by a professional engineer registered in the state of Washington and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features of moderate risk waste facilities and tank systems, secondary containments areas, ventilation systems, stormwater management features, and emission control features as required by the permitting air authority where applicable. The engineering report must demonstrate that the proposed design will meet the performance standards of this chapter;

(ii) Scale drawings of the facility including the location and size of waste handling areas, fixed equipment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility including any tank systems, run-on/runoff con-

trols, stormwater management features, and aeration and emission management features as required by a permitting air authority where applicable; and

(iv) A construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility to ensure the facility is constructed in accordance with the approved design.

(b) The owner or operator must provide copies of the construction record drawings for engineered features at the facility and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. The owner or operator must not commence operation in a newly constructed portion of the facility until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

(6) **Moderate risk waste facilities - Permit requirements - Operating ((standards))**. The owner or operator of ((a)) an MRW facility ((shall)) must:

(a) ((Manage)) Operate the site in compliance with the performance standards of WAC 173-350-040 and this subsection. In addition, the owner or operator must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan must describe the facility's operation and convey to site operating personnel the concept of operation intended by the designer. The plan of operation must be available on-site for inspection at the request of the jurisdictional health department. If necessary, the plan may be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of solid wastes to be handled at the facility;

(ii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;

(iii) A description of how MRW will be handled on-site during the active life of the facility including:

(A) Methods for managing and/or identifying unknown wastes;

(B) Procedures for managing wastes that arrive in corroded or leaking containers or when MRW is left at the gate when the facility is unattended;

(C) Protocol for sorting, processing, and packaging MRW;

(D) Maximum quantities of MRW to be safely stored in each area at any time;

(E) Waste acceptance protocol to preclude and redirect fully regulated dangerous waste and any unacceptable waste types, such as explosives and/or radioactives; and

(F) For facilities that offer material exchanges, a procedure for determining what MRW is suitable for exchange and how the materials exchange will be operated.

(iv) A description of how the owner or operator will ensure MRW handling activities and facilities will be managed so that:

((i))) (A) Each storage area is marked with signs to clearly show the type of MRW to be stored in that area;

((ii))) (B) Incompatible MRW and materials ((shall)) are not be mixed together or allowed to come into contact with each other;

((iii))) (C) MRW ((shall be)) is compatible with the containment system;

((iv))) (D) Unless otherwise approved by the jurisdictional health department, containers or tanks are closed except when actively adding or removing MRW in order to prevent a release of MRW through evaporation or spillage if overturned;

((v))) (E) All containers or tanks have visible and legible labels or markings that identify the MRW type and are visible for inspection;

((vi))) (F) Containers of MRW ((shall be)) are stored in a manner that allows for easy access and inspection. Drums containing MRW ((shall)) must have at least one side with a minimum of thirty inches clear aisle space;

((vii))) (G) Containers holding MRW are maintained in good condition including, but not limited to, no severe rusting or apparent structural defects;

((viii)) Uniform hazardous waste manifests are prepared and used at the point where possession of the MRW is given to a commercial registered dangerous waste transporter for shipments of MRW destined for out-of-state locations. This shall be completed in accordance with WAC 173-303-180;

((ix))) (H) A shipment of MRW transported is documented on a shipping paper in accordance with 49 C.F.R. Subpart C, Shipping Paper, Parts 172.200 through 172.204, except shipping papers are not required for:

(I) Transportation of HHW in a private motor vehicle or vessel including a leased or rented motor vehicle or vessel by a homeowner for noncommercial purposes to an MRW facility;

(II) Transportation of MRW or HHW in a motor vehicle, aircraft, or vessel operated by a federal, state, or local government employee solely for noncommercial federal, state, or local government purposes.

(I) Public access is restricted to areas identified in the plan of operation and unauthorized entry is prevented;

((x))) (J) Communication capabilities are provided to summon fire, police, or emergency service personnel;

((xi))) (K) Flammable or explosive gases do not exceed ten percent of the lower explosive limit in the area where flammable liquid MRW is ((handled)) consolidated. An explosive gas monitoring ((program shall)) alarm system must be implemented to ensure that this standard is achieved;

((xii))) MRW is delivered to a facility that meets the performance standards of WAC 173-350-040;

((xiii))) (L) Electrical grounding is provided and bonding occurs in areas where flammable and combustible liquids are consolidated;

(M) Personnel ((responsible for routine inspections and operations are familiar with the chemical nature of the materials and the appropriate mitigating action necessary in the event of fire, leak or spill; and

((xiv))) trained to manage MRW in accordance with this section and the plan of operation approved during the permit-

ting process are present at all times when MRW is accepted and handled; and

(N) The jurisdictional health department and the department are notified of any spills or discharges of MRW to the environment within twenty-four hours of knowledge of an incident.

((b)) (v) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs. The operator must ensure that routine and annual inspections are conducted as follows:

((i)) (A) Routine inspections ((shall)) must be conducted at least weekly or once each operating day, whichever is more frequent, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process. Routine inspections ((shall)) must be performed for:

- ((A)) (I) Operating hazards;
- ((B)) (II) Presence of operable safety equipment;
- ((C)) (III) Container integrity; and
- ((D)) (IV) General facility condition((:)).

((ii)) (B) Annual inspections ((shall)) must be conducted to determine the condition of:

((A)) (I) Secondary containment systems including all readily accessible below floor space, sumps, and tanks for deterioration and evidence of containment failure; and

((B)) (II) All ventilation and flammable vapor monitoring systems.

((e)) Maintain daily operating records of the weights or gallons of each type of MRW collected and the number of households and CESQGs served. Facility inspection reports shall be maintained in the operating record, including at least the date and time of the inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. Significant deviations from the plan of operation shall be noted in the operating record. Records shall be kept for a minimum of five years and shall be available for inspection at the request of the jurisdictional health department.

((d)) (vi) A description of how operators will maintain operating records on the amounts (weight or volume) and the types of waste received and removed from the facility, including the form or computer printout used to record this information. Facility annual reports must be maintained in the operating record. Facility inspection reports must be maintained in the operating record, including at least the date of inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. Significant deviations from the plan of operation must be noted in the operating record. Records must be kept for a minimum of five years, and must be available upon request by the jurisdictional health department;

((vii) Safety and emergency plans including:

(A) A list of all on-site emergency equipment with its capability, purpose, and training requirements;

(B) A description of actions to take if leaks in containers, tanks, or containment structures are suspected or detected and for other releases (e.g., failure of runoff containment system, gases generated due to chemical reactions or rapid volatilizations).

(viii) A description of employee training requirements; and

((ix) Other details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.

(b) Prepare and submit ((a copy of)) an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report ((shall)) must detail the facility's activities during the previous calendar year and must include the following information:

(i) Name and address of the facility and locations of all collection sites;

(ii) Calendar year covered by the report;

(iii) Annual ((quantity)) quantities and types of MRW, in pounds or gallons;

(iv) Number of households and CESQGs served;

(v) Type of final disposition ((e.g.,) for example, reuse, recycled, treatment, energy recovery, incineration, or ((disposal)) landfilling) by waste type of MRW;

(vi) Applicable financial assurance reviews and audit findings in accordance with WAC 173-350-600; and

(vii) Any additional information required by the jurisdictional health department as a condition of the permit.

((e)) Develop, keep and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall include the following:

((i) A description of the types of solid wastes to be handled at the facility;

((ii) A description of how MRW will be handled on site during the active life of the facility including:

((A) Methods for managing and/or identifying unknown wastes;

((B) Procedures for managing wastes that arrive in corroded or leaking containers or when MRW is left at the gate when the facility is unattended;

((C) Protocol for sorting, processing and packaging MRW;

((D) Procedures to protect containers of MRW susceptible to damage from weather and temperature extremes;

((E) Maximum quantities of MRW to be safely stored in each area at any time;

((F) Waste acceptance protocol to preclude and redirect fully regulated dangerous waste and any unacceptable waste types, such as explosives and/or radioactives; and

((G) For facilities that offer material exchanges, a procedure for determining what MRW is suitable for exchange and how the materials exchange will be operated;

((iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;

((iv) Safety and emergency plans including:

((A) A list of all on-site emergency equipment with its capability, purpose, and training requirements;

(B) A description of actions to take if leaks in containers, tanks, or containment structures are suspected or detected and for other releases (e.g., failure of runoff containment system, gases generated due to chemical reactions or rapid volatilization);

(v) The forms used to record weights and volumes; and

(vi) Other such details to demonstrate that the facility will be operated in accordance with this subsection and as required by the jurisdictional health department.)

(7) **Moderate risk waste facilities - Permit requirements - Groundwater monitoring (*requirements*)**. There are no specific groundwater monitoring requirements for MRW facilities subject to this chapter; however, moderate risk waste facilities must meet the ((*requirements provided under*) performance standards of WAC 173-350-040((5))).

(8) **Moderate risk waste facilities - Permit requirements - Closure (*requirements*)**.

(a) The owner or operator of a moderate risk waste facility ((shall)) must develop, keep, and follow a closure plan that includes:

((a)) Notify) (i) Notification to the jurisdictional health department, and where applicable, the financial assurance instrument provider, no later than one hundred eighty days prior to the projected date of the final receipt of MRW, of the intent to ((implement the closure plan)) close the facility in part or whole((. The facility shall close in a manner that:

(i) Minimizes the need for further maintenance));

(ii) ((Removes)) Removal of all MRW ((and ensures delivery of the MRW)) to a facility that conforms with the applicable regulations for handling the waste;

(iii) ((Decontaminates)) Decontamination of all areas where MRW has been handled, including, but not limited to, secondary containment, buildings, tanks, equipment, and property; ((and

(iv) Prepares the facility for remedial measures after closure, if required.

(b) Commencee))

(iv) Commencement of closure activities in part or whole within thirty days following the receipt of the final volume of MRW((. Waste shall not be accepted for disposal or for use in closure.

(e) At facility closure completion, in part or whole, submit the following to the jurisdictional health department:

(i));

(v) Submittal of a certification by the owner or operator, and a professional engineer ((licensed)) registered in the state of Washington that the site has been closed in accordance with ((the approved closure plan; and

((ii))) closure procedures;

(vi) Submittal of a closure report signed by the facility owner or operator and the certifying engineer that describes:

(A) Actions taken to determine if there has been a release to the environment; and

(B) The results of all inspections conducted as part of the closure procedure.

((d)) Keep and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include:

(i) A description of the activities and procedures that will be used to ensure compliance with this subsection;

((i))) (vii) An estimate of the maximum volume of MRW on-site at any time during the active life of the facility; and

((iii))) (viii) Closure cost estimates and projected fund withdrawal intervals from the financial assurance instrument, if ((such)) an instrument is required by subsection (9) of this section.

((e))) (b) The jurisdictional health department ((shall)) will notify the owner or operator, the department, and the financial assurance instrument provider, of the date when the jurisdictional health department has verified that the facility has been closed in accordance with the specifications of the approved closure plan.

(9) **Moderate risk waste facilities - Permit requirements - Financial assurance (*requirements*)**.

(a) The owner or operator of any fixed moderate risk waste facility that stores more than nine thousand gallons of MRW on-site, excluding used oil, is required to establish financial assurance in accordance with WAC 173-350-600.

(b) Proof of financial assurance ((shall)) must be provided to the jurisdictional health department prior to the acceptance of any MRW. The financial assurance instrument ((shall)) must provide sufficient funds to guarantee that all closure requirements are met. In the event that hazardous substances are released to the environment and site remediation is necessary, additional financial assurance ((shall)) must be provided ((in order that)) so site remediation can be accomplished.

(c) Nothing in this section ((shall)) prevents an owner or operator from including the cost of MRW facility financial assurance in an instrument established for a colocated permitted solid waste facility so long as there are adequate funds available for both closure activities and the instrument identifies the commitment of funds for both activities.

(10) **Moderate risk waste facilities - Permit application contents.** The owner or operator of ((a)) an MRW facility ((shall)) must obtain a solid waste permit from the jurisdictional health department. All applications for permits ((shall)) must be submitted in accordance with the requirements established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit ((shall)) must contain:

(a) Engineering reports/plans and specifications that address the design standards of subsections (4) and (5) of this section;

(b) A construction quality assurance plan that addresses the requirements of subsection (5) of this section;

(c) A plan of operation meeting the requirements of subsection (6) of this section;

((e))) (d) A closure plan meeting the requirements of subsection (8) of this section; and

((d))) (e) Documentation as needed to meet the financial assurance requirements of subsection (9) of this section.

((11) **Moderate risk waste facilities - Construction records.** The owner or operator of a moderate risk waste facility shall provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities shall not commence operation

~~until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.)~~

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-400 Limited purpose landfills. (1) **Limited purpose landfills - Applicability.**

(a) These standards apply to ~~((all)) limited purpose landfills~~ ~~((except:~~

~~((a) Municipal solid waste)). Landfills in this category include facilities which may encompass considerable variations in waste types, site conditions, and operational controls. The primary characteristic of a limited purpose landfill is that it is not allowed to receive municipal solid waste.~~

~~((b)) These standards do not apply to:~~

~~((i)) Landfills regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills;~~

~~((((b)) Inert waste)) ((ii)) Landfills regulated under WAC 173-350-410 Inert waste landfills;~~

~~((((e)) Special incinerator ash)) ((iii)) Landfills regulated under chapter 173-306 WAC, Special incinerator ash management standards;~~

~~((((d)) Dangerous waste)) ((iv)) Landfills regulated under chapter 173-303 WAC, Dangerous waste regulations; and~~

~~((((e)) Chemical waste landfills used for the disposal of polychlorinated biphenyls (PCBs))) ((v)) Landfills regulated under Title 40 C.F.R. Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.~~

(2) **Limited purpose landfills - Permit exemptions.** There are no permit exemptions for limited purpose landfills.

(3) **Limited purpose landfills - Permit requirements - Location** ~~((standards))~~. All limited purpose landfills ~~((shall))~~ must be located to meet the following requirements:

(a) No landfill ~~((shall))~~ may be located over a Holocene fault, in subsidence areas, or on or adjacent to an unstable slope or other geologic features which could compromise the structural integrity of the facility~~((-))~~;

(b) No landfill's active area ~~((shall))~~ may be located closer than one thousand feet to ~~((a down gradient drinking))~~ an existing water supply well~~((, unless the owner or operator can demonstrate that a minimum of ninety days will occur between the time that a contaminant is detected and the time the contaminant can reach the nearest down gradient drinking water supply well. Such demonstrations shall be prepared by a licensed professional in accordance with the requirements of chapter 18.220 RCW and shall be included in the permit application. The demonstration shall be based on the details of the sampling and analysis plan and the hydrogeologic properties of the hydrostratigraphic unit.))~~;

(c) No landfill's active area ~~((shall))~~ may be located in a channel migration zone ~~((as defined in WAC 173-350-100))~~ or within two hundred feet, measured horizontally, of a stream, lake, pond, river, ~~((or))~~ saltwater body, ~~((nor))~~ or in any wetland ~~((nor any public land that is being used by a public water system for watershed control for municipal drinking water purposes in accordance with WAC 248-54-660(4)))~~.

All facilities ~~((shall))~~ must conform to location restrictions established in local shoreline management plans adopted pursuant to chapter 90.58 RCW~~((-))~~, Shoreline Management Act of 1971:

(d) No landfill ~~((shall))~~ may be located within ten thousand feet of any airport runway currently used by turbojet aircraft or five thousand feet of any airport runway currently used by only piston-type aircraft unless the federal aviation administration grants a waiver. This requirement is only applicable where ~~((such))~~ a landfill is used for disposing of wastes where a bird hazard to aircraft would be created~~((-))~~; and

(e) All landfills ~~((shall))~~ must comply with the location standards specified in RCW 70.95.060.

((3))) (4) Limited purpose landfills - Permit requirements - Design ~~((standards))~~

~~((This section applies to landfills with considerable variations in waste types, site conditions, and operational controls)). All landfills ~~((shall))~~ must be designed and constructed to meet the design standards of this subsection, the performance standards of WAC 173-350-040, and ~~((shall))~~ must be appropriate for and compatible with the waste, the site, and the operation. The owner or operator of a limited purpose landfill ~~((shall))~~ must prepare engineering ~~((reports/ plans))~~ reports, plans, and specifications~~((, including a construction quality assurance plan, to address the design standards of this subsection. An owner or operator shall be able to demonstrate during the permitting process that the design of a proposed landfill will mitigate threats to human health and the environment. When evaluating a landfill design, the jurisdictional health department shall consider the following factors))~~ to address the following factors:~~

~~((a)) Landfill design must consider:~~

- ~~((i)) Waste characterization;~~
- ~~((ii)) Soil conditions;~~
- ~~((iii)) Hydrogeologic conditions;~~
- ~~((iv)) Hydraulic conditions;~~
- ~~((v)) Contaminant fate and transport;~~
- ~~((vi)) Topography;~~
- ~~((vii)) Climate;~~
- ~~((viii)) Seismic conditions;~~
- ~~((ix)) The ~~((total))~~ site capacity ~~((of the facility))~~ and each landfill unit;~~
- ~~((x)) Anticipated leachate characteristics and quantity;~~
- ~~((xi)) Operational controls; and~~
- ~~((xii)) Environmental monitoring systems.~~

~~((b)) Liner system design.~~

~~((i)) Liner system performance standard. Limited purpose landfills ~~((shall))~~ must be constructed in accordance with a design that:~~

~~((A)) Will prevent the contamination of the hydrostratigraphic units identified in the hydrogeologic assessment of the facility at the ~~((relevant))~~ point of compliance as specified during the permitting process; and~~

~~((B)) Controls methane and other explosive gases ~~((generated by the facility))~~ to ensure they do not exceed:~~

~~((I)) Twenty-five percent of the lower explosive limit for the gases in facility structures (excluding the gas control or recovery system components);~~

(II) The lower explosive limit ((~~in soil~~)) for gases in soil or in ambient air ((~~for the gases~~)) at the property boundary or beyond; and

(III) One hundred parts per million by volume of hydrocarbons (expressed as methane) in ((~~offsite~~)) off-site structures.

(ii) ((The jurisdictional health department may allow a limited purpose landfill to be designed and constructed without a liner system if the owner or operator can demonstrate during the permitting process that:

(A)) Liner system design and construction. The owner or operator of a limited purpose landfill must select one of the three options for liner system design and construction described in (b)(ii)(A), (B), and (C) of this subsection. The options described in (B) and (C) require that the owner or operator must demonstrate to the satisfaction of the jurisdictional health department during the permitting process that the proposed liner design will comply with the liner performance standards of (b)(i) of this subsection and the specific requirements of this item.

(A) Presumptive liner design. Limited purpose landfills designed and constructed with the following composite liner are presumed to meet the performance standard of (b)(i) of this subsection. The presumptive liner design consists of the following two components:

(I) A lower component consisting of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec; and

(II) An upper component consisting of a high-density polyethylene (HDPE) geomembrane with a minimum of 60-mil thickness. The geomembrane must be installed in direct and uniform contact with the lower component.

(B) Facility-specific liner design. Limited purpose landfills may be designed and constructed with an engineered liner system that the owner or operator demonstrates will meet the performance standard of (b)(i) of this subsection. The final liner system must be appropriate for and compatible with the characteristics of the site, the wastes that are specified in a solid waste permit as allowed for disposal in the landfill, and the operation of the facility.

(C) Operation without an engineered liner. Limited purpose landfills may be designed and constructed without an engineered liner system, if the owner or operator demonstrates to the satisfaction of the jurisdictional health department during the permitting process that:

(I) The contaminant levels in the waste and leachate are unlikely to pose an adverse impact to the environment; and

((B)) (II) The ability of natural soils to provide a barrier or reduce the concentration of contaminants provides sufficient protection to meet the performance standards of WAC 173-350-040; and

((C)) (III) Explosive gases generated by the facility will not exceed((:

((I)) Twenty-five percent of the lower explosive limit for the gases in facility structures (excluding the gas control or recovery system components);

((II)) The lower explosive limit in soil gases or in ambient air for the gases at the property boundary or beyond; and

(III) One hundred parts per million by volume of hydrocarbons (expressed as methane) in offsite structures) the criteria established in (b)(i) of this subsection.

(iii) Liner separation from groundwater. No landfill liner system ((shall)) may be constructed ((such that)) with the bottom of the lowest component ((is)) less than ten feet ((three meters)) above the seasonal high level of groundwater, unless a hydraulic gradient control system has been installed which prevents groundwater from contacting the liner. For the purpose of this section, groundwater includes any water-bearing unit which is horizontally and vertically extensive, hydraulically recharged, and volumetrically significant as to harm or endanger the integrity of the liner at any time.

(iv) Hydraulic gradient control system performance standard. When ((a hydraulic gradient control system is to be)) incorporated into a landfill design, a demonstration ((shall)) must be made during the permit process that the hydraulic gradient control system can ((be installed to)) control groundwater fluctuations and maintain separation between the controlled seasonal high level of groundwater ((in the identified water-bearing unit)) and the bottom of the ((lowest)) liner system ((component)). The ((hydraulic gradient control)) system ((shall)) must not ((have negative impacts on)) negatively impact waters of the state or impede the ((capability)) ability to collect representative samples ((representative)) of the ((quality of)) groundwater at the ((relevant)) point of compliance. The demonstration ((shall)) must include:

(A) A discussion in the geologic and hydrogeologic site characterization showing the effects from subsoil settlement, changes in surrounding land uses, climatic trends or other impacts affecting groundwater levels during the active life, closure and post-closure periods of the landfill;

(B) A discussion ((showing potential impacts)) of the gradient control ((operation to existing)) system's potential impacts on quality and quantity of groundwater or surface water(s). This discussion ((shall)) must include potential impacts to water users and instream flow and levels of surface waters in direct hydrologic contact ((or continuity)) with the hydraulic gradient control system. Any ((currently)) available ground or surface water quality data for hydrostratigraphic units, springs, or surface waters in direct hydrologic contact ((or continuity)) with the hydraulic gradient control system ((shall)) must be included;

(C) ((Conceptual engineering drawings of the proposed landfill and)) A discussion ((as to)) of how the hydraulic gradient control system will protect or impact the structural integrity and performance of the liner system; and

(D) ((Preliminary engineering drawings of the hydraulic gradient control system;))

((E))) Design specifications for the proposed ground and surface water monitoring systems((; and

((F)) A discussion of the potential impacts from the gradient control system on the capability of collecting groundwater samples that will represent the quality of groundwater passing the relevant point of compliance.

((v)) Presumptive liner design. Limited purpose landfills designed and constructed with the following composite liner are presumed to meet the performance standard of (b)(i) of this subsection. An alternative liner system design shall be

~~used when the nature of the waste, the disposal facility, or other factors are incompatible with the presumptive liner. The presumptive liner design consists of the following two components:~~

(A) A lower component consisting of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec.

(B) An upper component consisting of a high-density polyethylene (HDPE) geomembrane with a minimum of 60-mil thickness. The geomembrane shall be installed in direct and uniform contact with the lower component).

(c) Leachate collection and control system design. Except ((as provided in)) ~~when a landfill is designed and constructed without an engineered liner under~~ (b)(ii)(C) of this ((section)) subsection, limited purpose landfills ((shall)) must be constructed in accordance with a design that:

(i) Provides for collection and removal of leachate generated in the landfill;

(ii) Is capable of maintaining a leachate head of less than ((a)) one-foot ((head of leachate)) over the liner system and less than ((a two foot head)) two feet in leachate sump areas;

(iii) Includes a monitoring system capable of collecting representative samples of leachate generated in the landfill; and

(iv) Provides for leachate storage, treatment, or pretreatment to meet the requirements ((for permitted discharge under)) of WAC 173-350-330 Surface impoundments and tanks, chapter 90.48 RCW, Water pollution control, and the Federal Clean Water Act, as appropriate when leachate is to be discharged from the facility.

(d) Run-on/runoff control system design. Limited purpose landfills ((shall)) must be constructed in accordance with a design that:

(i) Will prevent flow onto the active portion of the landfill during the peak discharge from a twenty-five-year storm((, as defined in WAC 173-350-100));

(ii) Will prevent unpermitted discharges from the active portion of the landfill resulting from a twenty-five-year storm((, as defined in WAC 173-350-100)); and

(iii) When located in a one hundred-year flood plain, the entrance and exit roads((,)) and landfill practices do not restrict the flow of the base flood, reduce the temporary water storage capacity of the flood plain, or result in washout of solid waste((, to pose a hazard to human life, wildlife, land or water resources)).

(e) Final closure system design.

(i) Final closure performance standard. Limited purpose landfills ((shall)) must be closed in accordance with a design that:

(A) Prevents exposure of waste;

(B) Minimizes infiltration (at a minimum, the design will prevent the generation of significant quantities of leachate to eliminate the need for leachate removal by the end of the post-closure period);

(C) Prevents erosion from wind and water;

(D) Is capable of sustaining native vegetation;

(E) Addresses anticipated settlement, with a goal of achieving no less than two to five percent slope after settlement;

(F) Provides sufficient stability and mechanical strength and addresses potential freeze-thaw and desiccation;

(G) Provides for the management of run-on and runoff, preventing erosion or otherwise damaging the closure cover;

(H) Minimizes the need for post-closure maintenance;

(I) Provides for collection and removal of methane and other gases generated in the landfill ~~when management is required~~. Landfill gas ((shall)) must be purified for sale, used for its energy value, or flared when the quantity and quality of landfill gases will support combustion. Landfill gases may be vented when they will not support combustion. The collection and removal system ((shall)) must include a monitoring system capable of collecting representative samples of gases generated in the landfill; and

(J) Meets the requirements of regulations, permits and policies administered by the jurisdictional air pollution control authority or the department under chapter 70.94 RCW, Washington Clean Air Act and Section 110 of the Federal Clean Air Act.

(ii) ~~Final cover design and construction. The owner or operator of a limited purpose landfill must select one of the two options for final cover system design and construction described in (e)(ii)(A) and (B) of this subsection. The option described in (e)(ii)(B) of this subsection requires that the owner or operator must demonstrate to the satisfaction of the jurisdictional health department during the permitting process that the proposed final cover design will comply with the final cover performance standards of (e)(i) of this subsection and the specific requirements of this item.~~

(A) Presumptive final closure cover design. Limited purpose landfills designed and constructed with the following final closure cover are presumed to meet the performance standards in (e)(i)(A) through (D) of this subsection. ((An alternative final closure cover shall be used when the nature of the waste, the disposal facility or other factors are incompatible with the presumptive final closure cover system.)) The presumptive final closure cover consists of the following components:

((A)) (I) An antierosion layer consisting of a minimum of two feet ((60 cm)) of earthen material of which at least twelve inches ((30 cm)) of the uppermost layer is capable of sustaining native vegetation, seeded with grass or other shallow rooted vegetation; and

((B)) (II) A geomembrane with a minimum of 30-mil ((7.6 mm)) thickness, or a greater thickness that is commensurate with the ability to join the geomembrane material and site characteristics such as slope, overlaying a competent foundation.

(B) Facility-specific final cover. Limited purpose landfills may be designed and constructed with an engineered final cover system that the owner or operator demonstrates will meet the performance standards of (e)(i) of this subsection. The final cover system must be appropriate for and compatible with: The characteristics of the site, the wastes that are specified in a solid waste permit as allowed for disposal in the landfill, and the operation of the facility.

(f) Water balance and groundwater contaminant fate and transport modeling. Any modeling performed for evaluating a landfill design ((shall)) must meet the following performance standards:

(i) All water balance analysis ((~~shall~~) must) be performed using:

(A) The Hydrologic Evaluation of Landfill Performance (HELP) Model; or

(B) Alternate methods approved by the jurisdictional health department. Alternate methods ((~~shall~~) must) have supporting documentation establishing its ability to accurately represent the water balance within the landfill unit.

(ii) Any groundwater and contaminant fate and transport modeling ((~~shall~~) must) be conducted by a licensed professional in accordance with the requirements of chapter 18.220 RCW, Geologists, and meet the following performance standards:

(A) The model ((~~shall~~) must) have supporting documentation that establishes the ability of those methods to represent groundwater flow and contaminant transport under the conditions at the site;

(B) The model ((~~shall~~) must) be calibrated against site-specific field data;

(C) A sensitivity analysis ((~~shall~~) must) be conducted to measure the model's response to changes in the values assigned to major parameters, specific tolerances, and numerically assigned space and time discretizations;

(D) The value of the model's parameters requiring site-specific data ((~~shall~~) must) be based upon actual field or laboratory measurements; and

(E) The values of the model's parameters that do not require site-specific data ((~~shall~~) must) be supported by laboratory test results or equivalent methods documenting the validity of the chosen parameter values.

(g) Seismic impact zones. Limited purpose landfills located in seismic impact zones ((~~shall~~) must) be designed and constructed so that all containment structures, including liners, leachate collection systems, surface water control systems, gas management, and closure cover systems are able to resist the maximum horizontal acceleration in ((~~lithified~~)) earth materials for the site.

(h) The owner or operator of limited purpose landfills located in an unstable area ((~~shall~~) must) demonstrate that engineering measures have been incorporated into the landfill's design to ensure that the integrity of the structural components of the landfill will not be disrupted. The owner or operator ((~~shall~~) must) place the demonstration in the application for a permit. The owner or operator ((~~shall~~) must) consider the following factors, at a minimum, when determining whether an area is unstable:

(i) On-site or local soil conditions that may result in significant differential settling, surface rupture, or liquefaction;

(ii) On-site or local geologic or geomorphologic features indicating differential settling, surface rupture, or liquefaction; and

(iii) On-site or local human-made features or events (both surface and subsurface) indicating differential settling, surface rupture, or liquefaction.

(i) Setback requirements. Limited purpose landfills ((~~shall~~) must) be designed to provide a setback of at least one hundred feet between the active area and the property boundary. The setback ((~~shall~~) must) be increased if necessary to:

(i) Control nuisance odors, dust, and litter;

(ii) Provide a space for the placement of monitoring wells, gas probes, run-on/runoff controls, and other design elements; or

(iii) Provide sufficient area to allow proper operation of the landfill and access to environmental monitoring systems and facility structures.

((4)) (j) Access control and traffic requirements. All limited purpose landfills must:

(i) Provide controls to limit public access and prevent unauthorized vehicular traffic, illegal dumping of wastes, and keep animals out, by use of artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment. A lockable gate is required at each entry to the landfill;

(ii) Provide approach and exit roads of all-weather construction, with traffic separation and traffic control on-site, and at the site entrance; and

(iii) Provide a sign at the entrance that identifies the facility and provides emergency contact information.

(5) Limited purpose landfills - Permit requirements - Documentation

(a) The owner or operator must submit construction documents for, at a minimum, any elements of the landfill described in subsection (4) of this section to the jurisdictional health department for review and approval. The construction documents must be prepared by a professional engineer registered in the state of Washington, and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features of the facility including, but not limited to: Liners, final closure covers, impoundments, stormwater management features, leachate management features, and aeration and emission control features as required by the permitting air authority where applicable. The engineering report must demonstrate that the proposed design will meet the performance standards of this chapter;

(ii) Scale drawings of the facility including the location and size of waste storage and disposal areas, fixed equipment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility including, but not limited to, liners, final closure covers, stormwater management features, leachate management features, and aeration and emission management features as required by a permitting air authority where applicable; and

(iv) A construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility to ensure the facility is constructed in accordance with the approved design.

(b) The owner or operator of a limited purpose landfill must provide copies of the construction record drawings for engineered features at the facility and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. The owner or operator must not commence operation in a newly constructed portion of the facility until the

jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

(6) Limited purpose landfills - Permit requirements - Operating ((standards)). The owner or operator of a limited purpose landfill ((shall)) must:

(a) Operate the facility ((to:

(i) Control public access and prevent unauthorized vehicular traffic, illegal dumping of wastes, and keep animals out by using artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment. A lockable gate shall be required at each entry to the landfill;

(ii) Provide approach and exit roads of all weather construction, with traffic separation and traffic control on site, and at the site entrance;

(iii) Ensure that no liquid waste or liquids are placed in disposal facilities;

(iv) Provide on site fire protection as determined by the local and state fire control jurisdiction. Landfills disposing of wastes that can support combustion shall have a method to control subsurface fires;

(v) Ensure that at least two landfill personnel are on site with one person at the active face when the site is open to the public for disposal facilities with a permitted capacity of greater than fifty thousand cubic yards per year;

(vi) Provide communication between employees working at the landfill and management offices, on site and off site, sufficient to handle emergencies;

(vii) Control fugitive dust;

(viii) Perform no open burning unless permitted by the jurisdictional air pollution control agency or the department under chapter 70.94 RCW, Washington Clean Air Act;

(ix) Collect scattered litter as necessary to prevent vector harborage, a fire hazard, aesthetic impacts, or adversely affect wildlife or its habitat;

(x) Prohibit scavenging;

(xi) Ensure that reserve operational equipment shall be available to maintain and meet these standards; and

(xii) Ensure that operations do not endanger any containment or monitoring structures such as liners, leachate collection systems, surface water control systems, gas management, cover systems and monitoring wells.

(b) Operate the facility in compliance with the following operating standards unless a demonstration can be made during the permitting process that due to the nature, source of the waste, or quality of the leachate generated, these standards are not necessary for the protection of human health or the environment:

(i) Implement a program at the facility for detecting and preventing the disposal of dangerous waste fully regulated under chapter 173-303 WAC, municipal solid waste and other prohibited wastes. This program shall include, at a minimum:

(A) Random inspections of incoming loads unless the owner or operator takes other steps (for example, instituting source controls restricting the type of waste received) to ensure that incoming loads do not contain prohibited wastes. Random inspections shall include:

(I) Discharging a random waste load onto a suitable surface, or portion of the tipping area. A suitable surface shall be chosen to avoid interference with operations, so that sorted waste can be distinguished from other loads of uninspected waste, to avoid litter, and to contain runoff;

(II) The contents of the load shall be visually inspected prior to actual disposal of the waste. The facility owner or operator shall return prohibited waste to the hauler, arrange for disposal of prohibited wastes at a facility permitted to manage those wastes, or take other measures to prevent disposal of the prohibited waste at the facility;

(B) Maintaining records of inspections, or the results of other procedures if appropriate;

(C) Training facility personnel to recognize regulated dangerous waste, prohibited polychlorinated biphenyls (PCB) wastes and other prohibited wastes; and

(D) Immediate notification of the department and the jurisdictional health department if a regulated dangerous waste or prohibited PCB waste is discovered at the facility.

(ii) Thoroughly compact the solid waste before succeeding layers are added except for the first lift over a liner.

(iii) Cover disposed waste to control disease vectors, fires, nuisance odors, blowing litter, and scavenging. Putrescible waste shall be covered at the end of each operating day, or at more frequent intervals if necessary. The jurisdictional health department may grant a temporary waiver, not to exceed three months, from the requirement of this subsection if the owner or operator demonstrates that there are extreme seasonal climatic conditions that make meeting such requirements impractical. Materials used for cover shall be:

(A) At least six inches (15 cm) of earthen material, such as soils; or

(B) Alternative materials or an alternative thickness other than at least six inches (15 cm) of earthen material as approved by the jurisdictional health department when the owner or operator demonstrates that the alternative material or thickness will control vectors, fires, nuisance odors, blowing litter, scavenging, provide adequate access for heavy vehicles, and will not adversely affect gas or leachate composition and controls.

(iv) Prevent or control on site populations of disease vectors using techniques appropriate for the protection of human health and the environment; and

(v) Implement a program at the facility to control and monitor explosive gases and to respond to the detection of explosive gases in a manner that ensures protection of human health. This program shall include, at a minimum:

(A) Ensure that explosive gases generated by the facility do not exceed:

(I) Twenty five percent of the lower explosive limit for the gases in facility structures (excluding the gas control or recovery system components);

(II) The lower explosive limit in soil gases or in ambient air for the gases at the property boundary or beyond; and

(III) One hundred parts per million by volume of hydrocarbons (expressed as methane) in offsite structures) in compliance with the performance standards of WAC 173-350-040 and this subsection. In addition, the owner or operator must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan must describe the

facility's operation and convey to site operating personnel the concept of operation intended by the designer. The plan of operation must be available for inspection at the request of the jurisdictional health department. If necessary, the plan may be modified with the approval, or at the direction, of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of solid waste to be handled at the facility;

(ii) A description of the criteria and procedures used to ensure that dangerous waste and other unacceptable waste, including liquid waste, are not accepted at the facility;

(iii) A description of how solid wastes are to be handled on-site, including identification of unloading and staging area, transportation practices, and housekeeping activities;

(iv) A description of how the owner or operator will ensure the facility is operated to:

(A) Protect containment and monitoring structures such as liners, leachate collection systems, surface water control systems, gas management, cover systems, and monitoring wells;

(B) Control litter, dust, and nuisance odors;

(C) Control rodents, insects, and other vectors;

(D) Provide attendant(s) on-site during hours of operation; and

(E) Prevent scavenging.

(v) If the landfill's capacity is greater than fifty thousand cubic yards per year, acknowledgment that at least two landfill personnel will be on-site with one person at the active face when the site is open to the public;

(vi) A description of how waste will be landfilled, including:

(A) How solid waste will be compacted before succeeding layers are added, except that the first lift over a liner may be left uncompacted to act as a cushion for subsequent lifts;

(B) How cover of disposed waste will be managed. Putrescible waste must be covered at the end of each operating day, or at more frequent intervals if necessary. The jurisdictional health department may grant a temporary waiver, not to exceed three months, from this cover requirement if the owner or operator demonstrates that there are extreme seasonal climatic conditions that make meeting these requirements impractical. Materials used for cover must be:

(I) At least six inches of earthen material, such as soils; or

(II) Alternative materials or an alternative thickness other than at least six inches of earthen material as approved by the jurisdictional health department when the owner or operator demonstrates that the alternative material or thickness will control vectors, fires, nuisance odors, blowing litter, scavenging, provide adequate access for heavy vehicles, and will not adversely affect gas or leachate composition and controls.

(vii) A description of how any explosive gases generated at the facility will be monitored and controlled, and how the owner or operator will respond to the detection of explosive gases in a manner that ensures protections of human health. This element of the plan must include, at a minimum:

(A) Controls to ensure that explosive gases generated by the facility do not exceed the criteria of subsection (4)(b)(i)(B) of this section;

(B) A routine explosive gas-monitoring program to ensure that all standards are met. The minimum frequency for monitoring is quarterly. The type and frequency of monitoring ((shall)) must be determined based on the following factors:

(I) Soil conditions;

(II) The hydrogeologic conditions surrounding the facility;

(III) The hydraulic conditions surrounding the facility; and

(IV) The location of facility structures and property boundaries;

(C) If explosive gas levels exceed ((these of this)) the limits identified in subsection (4)(b)(i)(B) of this section, take all necessary steps to ensure protection of human health including:

(I) Notifying the jurisdictional health department;

(II) Notifying the local fire authority;

(III) Monitoring ((offsite)) off-site structures;

((III)) (IV) Monitoring explosive gas levels daily, unless otherwise authorized by the jurisdictional health department;

((IV) Evacuation of)) (V) Evacuating buildings affected by landfill gas until determined to be safe for occupancy;

((V)) (VI) Within seven calendar days of the explosive gas levels detection, placing in the operating record the explosive gas levels detected and a description of the steps taken to protect human health and ((provide)) providing written notification to the jurisdictional health department; ((and (VI)))

(VII) Within sixty days of the explosive gas levels detection, implementing a remediation plan for the explosive gas releases, describing the nature and extent of the problem and the remedy. This ((shall)) plan must be sent to the jurisdictional health department for approval as an amendment to the plan of operation. A copy of the remediation plan shall be placed in the operating record; and

((D) Construction)) (VIII) When constructing and decommissioning ((of all)) gas monitoring and extraction wells, do so in a manner that protects groundwater and meets the requirements of chapter 173-160 WAC, Minimum standards for construction and maintenance of wells(());

((e) Inspect and maintain the facility to prevent malfunctions and deterioration, operator errors, and discharges that may cause or lead to the release of wastes to the environment or cause a threat to human health.)) (viii) A description of how equipment, structures and other systems, including leachate collection, gas collection, run-on/runoff controls, and hydraulic gradient control systems, are to be inspected and maintained, including the frequency of inspection and inspection logs. The inspections ((shall)) must be at least weekly, unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process((. The owner or operator shall keep an inspection report or summary));

(ix) A description of how operators will maintain operating records on the amounts (weight or volume) and types of

waste received and removed from the facility, and the number of vehicles delivering waste to the facility, including the form or computer printout used to record this information. Facility annual reports must be maintained in the operating record. Facility inspection reports must be maintained in the operating record, including at least the date ((and time)) of inspection, the ((printed)) name and ((the)) signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or ((corrective actions);

((d) Maintain daily operating records on the weights (or volumes), number of vehicles entering and the types of wastes received. Facility inspection reports shall be maintained in the operating record)) remedial action. Significant deviations from the plan of operation ((shall)) must be noted ((on)) in the operating record. Records ((shall)) must be ((maintained)) kept for a minimum of five years and ((shall)) must be available upon request by the jurisdictional health department;

((e))) (x) A description of safety planning and emergency activities, including:

(A) On-site fire protection, as determined by the local and state fire control jurisdiction. Landfills disposing of wastes that can support combustion must have a method to control subsurface fires;

(B) Communications sufficient to handle emergencies will be provided between employees working at the landfill and management offices, on-site and off-site;

(C) Response procedures in the event of fire (including subsurface fires), a description of fire protection equipment available on-site and actions to take if there is a fire or explosion; and

(D) Response procedures in the event leachate or gas leaks are detected, or other releases occur.

(xi) Other details to demonstrate that the landfill will be operated in accordance with this subsection and as required by the jurisdictional health department.

(b) Prepare and submit a monitoring plan to the jurisdictional health department describing all gas, leachate, surface water, and groundwater monitoring to be conducted in order to meet the requirements of subsections (4) and (5) of this section, as well as WAC 173-350-500 for groundwater. This plan must be approved by the jurisdictional health department before being implemented. The jurisdictional health department may specify a periodic review schedule for the plan. This monitoring plan must:

(i) Provide appropriate, consistent sampling and analysis procedures designed to produce representative results. As appropriate, the plan must include procedures for:

- (A) Sample collection and handling;
- (B) Sample preservation and shipment;
- (C) Analytical procedures;
- (D) Chain-of-custody control;
- (E) Quality assurance and quality control; and
- (F) Decontamination of equipment.

(ii) The sampling and analytical methods must provide sufficient sensitivity, precision, selectivity and limited bias so that changes in conditions can be detected and quantified. All laboratory analyzed samples must be sent to an accredited laboratory for analyses according to chapter 173-50 WAC. Accreditation of environmental laboratories.

(c) Prepare and submit a ((copy of an)) landfill annual status report and an annual monitoring report to the jurisdictional health department and the department by April 1st of each year on forms provided by the department. ((The)) These annual reports ((shall)) must cover landfill activities during the previous calendar year and ((shall)) must include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual ((quantity)) quantities and types of waste accepted in tons or cubic yards with an estimate of density in pounds per cubic yard;

((iv) ((Results of groundwater monitoring in accordance with WAC 173-350-500;

((v))) Applicable financial assurance reviews and audit findings in accordance with WAC 173-350-600; and

((vi))) (v) Any additional information required by the jurisdictional health department as a condition of the permit((;

(f) Develop, keep, and abide by a plan of operation approved as part of the permitting process. The plan shall describe the operation of the facility and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at the direction of the jurisdictional health department. Each plan of operation shall contain:

(i) A description of the types of solid waste to be handled at the facility;

(ii) A description of how solid wastes are to be handled on-site during its active life including:

(A) The acceptance criteria that will be applied to the waste;

(B) Procedures for ensuring only the waste described will be accepted;

(C) Procedures for handling unacceptable wastes; and

(D) Unloading and staging areas, transportation, routine filling, compaction, grading, cover or other vector controls, and housekeeping;

(iii) A description of how equipment, structures and other systems, including leachate collection, gas collection, run-on/runoff controls, and hydraulic gradient control systems, are to be inspected and maintained, including the frequency of inspection and inspection logs;

(iv) Safety and emergency plans including:

(A) Procedures for fire (including subsurface fires) prevention, a description of fire protection equipment available on-site and actions to take if there is a fire or explosion;

(B) Actions to take if leaks are detected or for other releases, such as failure of runoff containment system, if such systems are required;

(v) The forms for recording weights and volumes; and

(vi) Other such details to demonstrate that the landfill will be operated in accordance with this subsection and as required by the jurisdictional health department)).

((5))) (7) Limited purpose landfills - Permit requirements - Groundwater monitoring ((requirements)). Limited purpose landfills are subject to the groundwater monitoring requirements of WAC 173-350-500.

((6)) **(8) Limited purpose landfills - Permit requirements - Closure ((requirements)).** The following ((closure)) requirements apply ((in full)) to facilities with limited purpose landfills:

(a) The owner or operator must develop, keep, and follow a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan must include the following information:

(i) A description of the final closure cover, designed in accordance with subsection (4)(e) of this section, the methods and procedures to be used to install the closure cover, sources of borrow materials for the closure cover, and a schedule or description of the time required for completing closure activities;

(ii) Projected time intervals at which sequential partial closure and final closure are to be implemented;

(iii) A description of the activities and procedures that will be used to ensure compliance with (b) through (f) of this subsection; and

(iv) Identify closure cost estimated and projected fund withdrawal intervals for the associated closure costs, from the approved financial assurance instrument.

(b) When the facility is ending active disposal operations the owner or operator ((shall)) must notify the jurisdictional health department, and where applicable, the financial assurance instrument provider, one hundred eighty days in advance of closure of the facility, or any portion thereof. The facility, or any portion thereof, ((shall)) must close in a manner that:

(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes, or eliminates threats to human health and the environment from post-closure escape of solid waste constituents, leachate, landfill gases, contaminated runoff, or waste decomposition products to the ground, groundwater, surface water, and the atmosphere; and

(iii) Prepares the facility, or any portion thereof, for the post-closure period.

((b)) **(c)** The owner or operator ((shall)) must commence implementation of the closure plan in part or whole within thirty days after receipt of the final volume of waste and/or attaining the final landfill elevation at part of or at the entire landfill as identified in the approved facility closure plan unless otherwise specified in the closure plan((.

~~(e) The owner or operator shall not accept waste, including inert wastes, for disposal or for use in closure except as identified in the closure plan approved by the jurisdictional health department.~~

~~(d) The owner or operator shall develop, keep, and abide by a closure plan approved by the jurisdictional health department as part of the permitting process. At a minimum, the closure plan shall include the following information:~~

~~(i) A description of the final closure cover, designed in accordance with subsection (3)(e) of this section, the methods and procedures to be used to install the closure cover, sources of borrow materials for the closure cover, and a schedule or description of the time required for completing closure activities;~~

~~(ii) Projected time intervals at which sequential partial closure and final closure are to be implemented;~~

((iii) A description of the activities and procedures that will be used to ensure compliance with (a) through (g) of this subsection; and

((iv) Identify closure cost estimates and projected fund withdrawal intervals for the associated closure costs, from the approved financial assurance instrument.

(e) The owner or operator shall submit final engineering closure plans, in accordance with the approved closure plan and all approved amendments, for review, comment, and approval by the jurisdictional health department.

((f))
((d)) When landfill closure is completed in part or whole, the owner or operator ((shall)) must submit ((the following)) to the jurisdictional health department((:

(i) Landfill closure plan sheets signed by a professional engineer registered in the state of Washington and modified as necessary to represent as-built changes to final closure construction for the landfill, or a portion thereof, as approved in the closure plan; and

(ii) Certification by the owner or operator, and a professional engineer registered in the state of Washington, that the landfill, or a portion thereof has been closed in accordance with the approved closure plan.

(g) The owner or operator shall record maps and a statement of fact concerning the location of the disposal facility as part of the deed with the county auditor not later than three months after closure.

((h))) a certification by a professional engineer registered in the state of Washington, that the landfill, or a portion thereof, has been closed in accordance with the approved closure plan;

(e) Environmental covenant. Following closure of a limited purpose landfill, the owner operator must file an environmental covenant conforming to the procedures and requirements of chapter 64.70 RCW, Uniform Environmental Covenants Act. Unless waived in writing by the department, the environmental covenant must be in a form approved by the department and include at a minimum the following provisions:

(i) State that the document is an environmental covenant executed pursuant to chapter 64.70 RCW, Uniform Environmental Covenants Act;

(ii) Contain a legally sufficient description of the real property subject to the covenant;

(iii) Designate the department, or other person approved by the department, as the holder of the covenant;

(iv) Be signed by the department, every holder, and, unless waived by the department, every owner of a fee simple interest in the real property subject to the covenant;

(v) Identify the name and location of the administrative record for the property subject to the environmental covenant;

(vi) Describe with specificity the activity or use limitations on the real property subject to the covenant. At a minimum, this must prohibit uses and activities that:

~~(A) Threaten the integrity of any cover, waste containment, stormwater control, gas leachate, public access control, or environmental monitoring systems;~~

~~(B) May interfere with the operation and maintenance, monitoring, or other measures necessary to assure the integ-~~

riaty of the landfill and continued protection of human health and the environment; and

(C) May result in the release of solid waste constituents or otherwise exacerbate exposures.

(vii) Grant the department and the jurisdictional health department the right to enter the property at reasonable times for the purpose of evaluating compliance with the environmental covenant, including the right to take samples.

(f) The jurisdictional health department ((shall)) will notify the owner or operator, the department, and the financial assurance instrument provider, of the date when the jurisdictional health department has verified that the facility, or a portion thereof, has been closed in accordance with the specifications of the approved closure plan and the closure requirements of this section, at which time the post-closure period ((shall)) commences.

((7) Limited purpose landfills - Post closure requirements. The following post closure requirements apply in full to facilities with limited purpose landfills:

(a) The owner or operator shall provide post closure activities to allow for continued facility maintenance and monitoring of air, land, and water for a period of twenty years, or as long as necessary for the landfill to stabilize and to protect human health and the environment. For disposal facilities, post closure care includes at least the following:

(i) Maintaining the integrity and effectiveness of any final closure cover, including making repairs to the closure cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, maintaining the vegetative cover, and preventing run on and runoff from eroding or otherwise damaging the final closure cover;

(ii) General maintenance of the facility and facility structures for their intended use;

(iii) Monitoring groundwater, surface water, leachate, or other waters in accordance with the requirements of WAC 173-350-500 and the approved monitoring plan, including remedial measures if applicable, and maintaining all monitoring systems;

(iv) Monitoring landfill gas and maintaining and operating the gas collection and control systems;

(v) Maintaining, operating, and monitoring hydraulic gradient controls systems if applicable;

(vi) Monitoring settlement; and

(vii) Any other activities deemed appropriate by the jurisdictional health department.

(b) The owner or operator shall commence post closure activities for the facility, or portion thereof, after completion of closure activities outlined in subsection (6) of this section. The jurisdictional health department may direct that post closure activities cease until the owner or operator receives a notice to proceed with post closure activities.

(c) The owner or operator shall develop, keep, and abide by a post closure plan approved by the jurisdictional health department as a part of the permitting process. The post closure plan shall:

(i) Address facility maintenance and monitoring activities for at least a twenty year period or until the landfill becomes stabilized (i.e., little or no settlement, gas production or leachate generation), and monitoring of groundwater,

surface water, gases and settlement can be safely discontinued; and

(ii) Project time intervals at which post closure activities are to be implemented, and identify post closure cost estimates and projected fund withdrawal intervals from the selected financial assurance instrument, where applicable, for the associated post closure costs.

(d) The owner or operator shall complete post closure activities for the facility, or portion thereof, in accordance with the approved post closure plan and schedule, or the plan shall be so amended with the approval of the jurisdictional health department. The jurisdictional health department may direct facility post closure activities, in part or completely, to cease until the post closure plan has been amended and has received written approval by the health department.

(e) When post closure activities are complete, the owner or operator shall submit a certification to the jurisdictional health department, signed by the owner or operator, and a professional engineer registered in the state of Washington stating why post closure activities are no longer necessary.

(f) If the jurisdictional health department finds that post closure monitoring has established that the landfill is stabilized, the health department may authorize the owner or operator to discontinue post closure maintenance and monitoring activities.

(g) The jurisdictional health department shall notify the owner or operator, the department, and the financial assurance instrument provider, of the date when the jurisdictional health department has verified that the facility has completed post closure activities in accordance with the specifications of the approved post closure plan.

((8))) (9) Limited purpose landfills - Permit requirements - Financial assurance ((requirements)).

(a) Financial assurance is required for all limited purpose landfills.

(b) Each owner or operator ((shall)) must establish a financial assurance mechanism in accordance with WAC 173-350-600 that will accumulate funds equal to the closure and post-closure cost estimates over the life of the landfill, or over the life of each landfill unit if closed discretely.

(c) No owner or operator ((shall)) may commence or continue disposal operations in any part of a facility subject to this section until a financial assurance instrument has been provided for closure and post-closure activities in ((conformance)) accordance with WAC 173-350-600.

((9))) (10) Limited purpose landfills - Permit application contents. The owner or operator ((shall)) must obtain a solid waste permit from the jurisdictional health department. All applications for permits ((shall)) must be in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit ((shall)) must contain:

(a) Demonstrations that the facility meets the location standards of subsection ((2)) (3) of this section;

(b) Documentation that all owners of property located within one thousand feet of the ((facility property)) boundary of the landfill as it is proposed to be located in the solid waste permit application have been notified that the proposed facility may impact their ability to construct water supply wells,

in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells;

(c) Engineering ((reports/plans)) reports, plans, and specifications that address the ((design)) standards of subsections ((3)) (4) and (5) of this section;

(d) A construction quality assurance plan that addresses the requirements of subsection (5) of this section;

(e) A plan of operation meeting the requirements of subsection ((4)) (6) of this section;

((e))) (f) Hydrogeologic reports and plans that address the requirements of subsection ((5)) (7) of this section;

((f))) (g) A closure plan meeting the requirements of subsection ((6)) (8) of this section;

((g))) (h) A post-closure plan meeting the requirements of subsection ((7)) (11) of this section; and

((h))) (i) Documentation as needed to meet the financial assurance requirements of subsection ((8)) (9) of this section.

((10) *Limited purpose landfills - Construction records.* The owner or operator of a limited purpose landfill shall provide copies of the construction record drawings for engineered facilities at the site and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. Facilities shall not commence operation until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.)) (11) **Limited purpose landfills - Post-closure care requirements.**

(a) The owner or operator must conduct post-closure care for as long as necessary for the landfill to become functionally stable. A landfill is functionally stable when it does not present a threat to human health or the environment at the point of exposure for humans or environmental receptors. The point of exposure is identified as the closest location at which a receptor could be exposed to contaminants and receive a dose by a credible pathway from the landfill. Potential threats to human health or the environment are assessed by considering leachate quality and quantity, landfill gas production rate and composition, cover system integrity, and groundwater quality. The post-closure care period may be adjusted under (b) of this subsection. Post-closure care must consist of at least the following:

(i) Maintaining the integrity and effectiveness of any final cover, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, maintaining the vegetative cover (including cutting of vegetation when needed) or other events, and preventing run-on and runoff from eroding or otherwise damaging the final cover;

(ii) Monitoring the groundwater, surface water, leachate, landfill gas, and landfill settlement according to the monitoring plan described in subsection (4)(f) of this section, including any monitoring of remedial measures if applicable, and maintaining all monitoring systems;

(iii) Maintaining and operating the leachate collection system under subsection (3)(c) of this section, if applicable. The jurisdictional health department may recommend to the

department, and the department may, under its authority in chapter 90.48 RCW, Water pollution control, allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;

(iv) Maintaining and operating the landfill gas collection and control system under subsection (3)(e)(i)(I) and (4)(b)(v) of this section; and

(v) Maintaining, operating and monitoring hydraulic gradient control systems if applicable;

(vi) Maintaining the facility and facility structures for their intended uses; and

(vii) Performing any other activities deemed appropriate by the jurisdictional health department.

(b) The jurisdictional health department and owner or operator will consider at least the following factors when determining when a landfill unit is functionally stable or whether to decrease or increase the post-closure care period:

(i) Leachate. The landfill's production and quality of leachate must have attained a state where maintenance and operation of the leachate collection system can be discontinued without posing a threat to human health or the environment;

(ii) Landfill gas. The landfill's production and composition of gas must have attained a state where maintenance and operation of the gas collection system can be discontinued while meeting the criteria in subsection (4)(b)(i)(B) of this section and not pose a threat to human health or the environment from methane or nonmethane compounds;

(iii) Settlement and cover integrity. The cover system must attain geotechnical stability for slope and settlement. Vegetation and other erosion controls must prevent exposing waste or otherwise threaten integrity of the cover system. The cover system must have attained a state where no additional care is required to ensure its integrity from settlement or erosion; and

(iv) Groundwater quality. Groundwater quality must remain in compliance with the performance standards of WAC 173-350-040 at the point of compliance.

(c) The owner or operator must commence post-closure activities for the facility, or portion thereof, after completion of closure procedures and activities outlined in subsection (8) of this section;

(d) The owner or operator must develop, keep, and follow a post-closure plan approved by the jurisdictional health department as a part of the permitting process. The post-closure plan must:

(i) Address facility maintenance and monitoring activities for the duration of the post-closure care period; and

(ii) Project time intervals at which post-closure activities are to be implemented, and identify post-closure cost estimates and projected fund withdrawal intervals from the selected financial assurance instrument, where applicable, for the associated post-closure costs.

(e) The owner or operator must complete post-closure activities for the facility, or portion thereof, in accordance with the approved post-closure plan and schedule, or the plan must be so amended with the approval of the jurisdictional health department;

(f) When post-closure activities are complete, the owner or operator must submit a certification to the jurisdictional health department, signed by the owner or operator, and a professional engineer registered in the state of Washington stating why post-closure activities are no longer necessary;

(g) If the jurisdictional health department finds that post-closure monitoring has established that the landfill is functionally stable, the health department may authorize the owner or operator to discontinue post-closure maintenance and monitoring activities; and

(h) The jurisdictional health department must notify the owner or operator, the department, and the financial assurance instrument provider, of the date when the jurisdictional health department has verified that the facility has completed post-closure activities in accordance with the specifications of the approved post-closure plan.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-410 Inert waste landfills. (1) Inert waste landfills - Applicability. These standards apply to landfills that receive only ((inert wastes, as identified pursuant to WAC 173-350-990, including facilities that use inert wastes as a component of fill)) the following types of solid waste if the waste has not been tainted, through exposure from chemical, physical, biological, or radiological sub-

stances, such that it presents a threat to human health or the environment greater than that inherent to the material:

- (a) Cured concrete;
- (b) Asphaltic materials;
- (c) Brick and masonry;
- (d) Ceramic materials produced from fired clay or porcelain;
- (e) Glass; and
- (f) Stainless steel and aluminum.

(2) Inert waste landfills - Permit exemptions. In accordance with RCW 70.95.305, inert waste landfill facilities ((with a total capacity of two hundred fifty cubic yards or less of inert wastes are categorically)) meeting the terms and conditions of Table 410-A are exempt from solid waste handling permitting ((and other requirements of this section, provided that the inert waste landfill is operated in compliance with the performance standards of WAC 173-350-040. An owner or operator that does not comply with the performance standards of WAC 173-350-040 is required to obtain a permit from the jurisdictional health department, and)). If a facility does not operate in compliance with the terms and conditions established for an exemption under this subsection, the facility may be subject to the permitting requirements for solid waste handling under this chapter. In addition, violations of the terms and conditions of this subsection may be subject to the ((penalty)) enforcement provisions of RCW 70.95.315.

((2)))

Table 410-A

Terms and Conditions for Solid Waste Permit Exemption

	Waste Material	Volume	Specific Requirements for Activity or Operation
(1)	<u>Inert wastes as listed in WAC 173-350-410 (1)(a)</u>	<u>250 cubic yards or less</u>	<u>(a) Meet the performance standards of WAC 173-350-040;</u> <u>(b) No notification or reporting requirements.</u>
(2)	<u>Inert wastes as listed in WAC 173-350-410 (1)(a)</u>	<u>Greater than 250 cubic yards, but no more than 2000 cubic yards</u>	<u>(a) Meet the performance standards of WAC 173-350-040;</u> <u>(b) Manage the operation to prevent the generation of fugitive dust;</u> <u>(c) Allow the department or the jurisdictional health department to inspect the site at reasonable times;</u> <u>(d) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department and must be complete; and</u> <u>(e) Prepare and submit an annual report to the department and the jurisdictional health department by April 1st of forms supplied by the department. The annual report must detail the facility's activities during the previous calendar year and must include the following information:</u> <u>(i) Name and address of the facility;</u> <u>(ii) Calendar year covered by the report;</u> <u>(iii) Annual quantities and types of solid waste landfilled; and</u> <u>(iv) Any additional information required by the department.</u>

(3) Inert waste landfills - Permit requirements - Location ((standards)). All inert waste landfills ((shall)) must be located to meet the following requirements. No inert waste landfill's active area ((shall)) may be located:

- (a) On an unstable slope;
- (b) Closer than ten feet from the facility property line;
- (c) Closer than one ((hundred)) thousand feet to ((a drinking)) an existing water supply well; or
- (d) In a channel migration zone ((as defined in WAC 173-350-100,)) or within one hundred feet measured horizontally, of a stream, lake, pond, river, or saltwater body, ((nor)) or in any wetland ((nor any public land that is being used by a public water system for watershed control for municipal drinking water purposes in accordance with WAC 248-54-660(4))).

((3))) (4) Inert waste landfills - Permit requirements - Design ((standards)). Inert waste landfills must be designed so that the facility can be operated to meet the performance standards of WAC 173-350-040. The owner or operator of an inert waste landfill ((shall)) must prepare engineering reports/plans and specifications to address the design standards of this subsection. The existing site topography, including the location and approximate thickness and nature of any existing waste, the vertical and horizontal limits of excavation and waste placement, final closure elevation and grades, and the design capacity of each landfill unit, total design capacity, and future use of the facility after closure, ((shall)) must be included. Inert waste landfills ((shall)) must be designed and constructed to:

(a) Ensure that all waste is above the seasonal high level of groundwater. For the purpose of this section, groundwater includes any water-bearing unit which is horizontally and vertically extensive, hydraulically recharged, and volumetrically significant;

(b) Maintain a stable site; ((and))

(c) Manage surface water, including run-on prevention and runoff conveyance, storage, and treatment, to protect the waters of the state; and

((4))) (d) Provide controls to limit public access and prevent unauthorized vehicular traffic and illegal dumping of wastes by use of artificial barriers, natural barriers, or both, as appropriate to protect human health and the environment. A lockable gate is required at each entry to the landfill.

(5) Inert waste landfills - Permit requirements - Documentation.

(a) The owner or operator must submit construction documents for, at a minimum, any elements of the landfill described in subsection (4) of this section to the jurisdictional health department for review and approval. The construction documents must be prepared by a professional engineer registered in the state of Washington, and must include:

(i) An engineering report that presents the design basis and calculations for the engineered features of the facility including any run-on/runoff controls, impoundments, stormwater management features, and emission control features as required by the permitting air authority where applicable. The engineering report must demonstrate that the proposed design will meet the performance standards of this chapter;

(ii) Scale drawings of the facility including the location and size of waste storage and disposal areas, fixed equip-

ment, buildings, stormwater management features where applicable, access roads, traffic patterns, and other constructed areas and buildings integral to facility operation;

(iii) Design specifications for the engineered features of the facility including any run-on/runoff controls, impoundments, stormwater management features, and aeration and emission management features as required by a permitting air authority where applicable; and

(iv) A construction quality assurance plan that describes monitoring, testing, and documentation procedures that will be performed during construction of the facility to ensure the facility is constructed in accordance with the approved design.

(b) The owner or operator of an inert waste landfill must provide copies of the construction record drawings for engineered features at the facility and a report documenting facility construction, including the results of observations and testing carried out as part of the construction quality assurance plan, to the jurisdictional health department and the department. The owner or operator must not commence operation in a newly constructed portion of the facility until the jurisdictional health department has determined that the construction was completed in accordance with the approved engineering report/plans and specifications and has approved the construction documentation in writing.

(6) Inert waste landfills - Permit requirements - Operating ((standards)). The owner or operator of an inert waste landfill ((shall)) must:

(a) Operate the facility ((to:

(i) Control public access and prevent unauthorized vehicular traffic and illegal dumping of wastes;

(ii) Implement a program at the facility capable of detecting and preventing noninert wastes from being accepted or mixed with inert waste;

(iii) Handle all inert waste in a manner that is in compliance with the performance standards of WAC 173-350-040;

(iv) Handle all inert waste in a manner that controls fugitive dust and is protective of waters of the state; and

(v) Prevent unstable conditions resulting from their activities;

(b) Inspect and maintain the facility to prevent malfunctions and deterioration, operator errors and discharges that may cause a threat to human health.) in compliance with the performance standards of WAC 173-350-040 and this subsection. In addition, the owner or operator must develop, keep, and follow a plan of operation approved as part of the permitting process. The plan must describe the facility's operation and convey to site operating personnel the concept of operation intended by the designer. The plan of operation must be available for inspection at the request of the jurisdictional health department. If necessary, the plan may be modified with the approval, or at the direction, of the jurisdictional health department. Each plan of operation must include the following:

(i) A description of the types of solid waste to be handled at the facility;

(ii) A description of the procedures used to ensure that dangerous waste and other unacceptable waste are not accepted at the facility;

(iii) A description of how waste materials are to be handled on-site, including tipping procedures, routine filling and grading, maximum site capacity, and equipment used;

(iv) A description of how the owner or operator will ensure the facility is operated in a way to:

(A) Control litter and dust;

(B) Control runoff;

(C) Prevent unstable conditions during landfilling; and

(D) Control unauthorized vehicular traffic and prevent illegal dumping.

(v) A description of how equipment, structures, run-on/runoff controls, and other systems are to be inspected and maintained, including the frequency of inspection and inspections logs. The inspections ((shall)) must be ((as needed, but)) at least weekly, ((to ensure meeting operational standards,)) unless an alternate schedule is approved by the jurisdictional health department as part of the permitting process;

((e))) (vi) A description of how operators will maintain ((daily)) operating records of the ((quantities)) amounts (weight or volume) and types of ((inert)) waste ((disposed in addition, record and retain information that documents that all wastes landfilled meet the criteria for inert waste)) received, including the form or computer printout used to record this information. Facility annual reports must be maintained in the operating record. Facility inspection reports ((shall)) must be maintained in the operating record, including at least the date of inspection, the name and signature of the inspector, a notation of observations made, and the date and nature of any needed repairs or remedial action. Significant deviations from the plan of operation ((shall)) must be noted in the operating record. Records ((shall)) must be ((maintained)) kept for a minimum of five years and ((shall)) must be available upon request by the jurisdictional health department;

((d))) (vii) Safety and emergency plans; and

(viii) Other details to demonstrate that the facility will meet the requirements of this subsection and as required by the jurisdictional health department.

(b) Prepare and submit ((a copy of)) an annual report to the jurisdictional health department and the department by April 1st on forms supplied by the department. The annual report shall detail the facility's activities during the previous calendar year and ((shall)) must include the following information:

(i) Name and address of the facility;

(ii) Calendar year covered by the report;

(iii) Annual ((quantity)) quantities and types of waste ((disposed in tons or cubic yards with an estimate of density in pounds per cubic yard)) received; and

(iv) Any additional information required by the jurisdictional health department as a condition of the permit((;

(e) Develop, keep, and abide by a plan of operation approved as part of the permitting process. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the jurisdictional health department. If necessary, the plan shall be modified with the approval, or at

the direction of the jurisdictional health department. Each plan of operation shall include:

(i) A description of the types of solid waste to be handled at the facility;

(ii) A description of how solid wastes are to be handled on-site during its active life including:

(A) Acceptance criteria that will be applied to the waste;

(B) Procedures for ensuring only the waste described will be accepted;

(C) Procedures for handling unacceptable wastes; and

(D) Procedures for transporting and routine filling and grading;

(iii) A description of how equipment, structures and other systems are to be inspected and maintained, including the frequency of inspection and inspection logs;

(iv) Safety and emergency plans;

(v) The forms used to record weights and volumes; and

((vi) Other such details to demonstrate that the facility will meet the requirements of this subsection and as required by the jurisdictional health department)).

((5))) (7) Inert waste landfills - Permit requirements

- Groundwater monitoring ((standards)). There are no specific groundwater monitoring requirements for inert waste landfills subject to this chapter; however, inert waste landfills must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5))).

((6))) (8) Inert waste landfills - Permit requirements

- Closure ((requirements)). The owner or operator of an inert waste landfill ((shall)) must develop, keep, and follow a closure plan that includes:

((Notify)) Notification to the jurisdictional health department sixty days in advance of closure of the facility;

((Close)) Closure of the inert waste landfill unit by leveling the wastes to the extent practicable, or as appropriate for the proposed future use, and fill all voids which could pose a physical threat for persons, or which provide disease vector harborages((The));

((e) Record)) (d) Recording of maps and a statement of fact concerning the location of the landfill as part of the deed with the county auditor not later than three months after closure.

((7))) (9) Inert waste landfills - Permit requirements

- Financial assurance ((requirements)). There are no specific financial assurance requirements for inert waste landfills subject to this chapter; however, inert waste landfills must meet the ((requirements provided under)) performance standards of WAC 173-350-040((5))).

((8))) (10) Inert waste landfills - Permit application contents. The owner or operator ((shall)) must obtain a solid waste permit from the jurisdictional health department. All applications for permits shall be submitted in accordance with the procedures established in WAC 173-350-710. In addition to the requirements of WAC 173-350-710 and 173-350-715, each application for a permit shall contain:

(a) Engineering reports/plans and specifications that address the design standards of subsections ((3))) (4) and (5) of this section;

(b) A plan of operation that meets the requirements of subsection ((4)) (6) of this section; ((and))

(c) A closure plan that meets the requirements of subsection (8) of this section; and

(d) Documentation that all owners of property located within one thousand feet of the ((facility property)) boundary of the landfill as it is proposed to be located in the solid waste permit application have been notified that the proposed facility may impact their ability to construct water ((supply)) wells, in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-490 Other methods of solid waste handling. (1) **Other methods of solid waste handling - Applicability.** ((This section applies)) These standards apply to other methods of solid waste handling not specifically identified elsewhere in this regulation, nor excluded from this regulation.

(2) **Other methods of solid waste handling - Permit requirements.** Owners and operators of solid waste handling facilities subject to this section ((shall)) must:

(a) Comply with the ((requirements in)) performance standards of WAC 173-350-040; and

(b) Obtain a permit in accordance with the provisions of WAC 173-350-700 from the jurisdictional health department. Permit applications ((shall)) must be submitted in accordance with the provisions of WAC 173-350-710 and ((shall)) must include information required in WAC 173-350-715, and any other information as may be required by the jurisdictional health department.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-500 Groundwater monitoring. (1) **Groundwater monitoring - ((Professional qualifications)) General provisions.**

(a) **Applicability.** This section applies to limited purpose landfills subject to WAC 173-350-400 and surface impoundments that do not have a leak detection layer subject to WAC 173-350-330. Subsections (1), (3), (4) and (5) of this section apply to all such facilities, and subsection (2) of this section applies to WAC 173-350-400 Limited purpose landfills, only.

(b) Jurisdictional health departments are responsible for regulation of groundwater monitoring at landfills and other solid waste handling facilities they permit, except in instances where responsibility is shared with the department.

(c) All reports, plans, procedures, and design specifications required by this section ((shall)) must be prepared by a licensed professional in accordance with the requirements of chapter 18.220 RCW, Geologists.

(2) **Groundwater monitoring - Site characterization for landfill sites.** A site proposed for ((solid waste)) limited purpose landfill activities ((shall)) subject to WAC 173-350-400 must be characterized for its geologic and hydrogeologic properties and suitability for constructing, operating, and monitoring ((a solid waste)) the facility in accordance with

all applicable requirements of this chapter. The site characterization report ((shall)) must be submitted with the permit application and ((shall)) must include at a minimum the following:

(a) A summary of local and regional geology and hydrology, including:

(i) Faults;

(ii) ((Zones of joint concentrations;)) Joints and fractures;

(iii) Unstable slopes and subsidence areas on-site;

(iv) Areas of groundwater recharge and discharge;

(v) Stratigraphy; and

(vi) Erosional and depositional environments ((and facies interpretation(s);)).

(b) A site-specific borehole program ((including)) that includes a description of lithology, soil/bedrock types and properties, preferential groundwater flow paths or zones of higher hydraulic conductivity, the presence of confining unit(s) and geologic features such as fault zones, cross-cutting structures, ((etc., and)) the target hydrostratigraphic unit(s) to be monitored, and other relevant information. All procedures conducted must follow current applicable ASTM procedures. A list of procedures that were followed must be identified in subsequent report(s). Requirements of the borehole program include:

(i) Each boring will be of sufficient depth below the proposed grade of the bottom liner to identify soil, bedrock, and hydrostratigraphic unit(s);

(ii) Boring samples ((shall)) must be collected from five-foot intervals at a minimum and at changes in lithology. Representative samples ((shall)) must be described using the unified soil classification system ((following ASTM D2487-85)); and tested for the following, if appropriate:

(A) Particle size distribution by sieve and hydrometer analyses ((in accordance with approved ASTM methods D422 and D1120; and));

(B) Atterburg limits ((following approved ASTM method D4318));

((iii)) Each lithologic unit on site will be analyzed for:

(A)) ((C)) Moisture content sufficient to characterize the unit ((using ASTM method D2216));

(D) Shear strength and consolidation testing on soft or potentially weak layers, for use in stability and settlement analyses; and

((B)) (E) Hydraulic conductivity by an in situ field method or laboratory method. ((All samples collected for the determination of permeability shall be collected by standard ASTM procedures))

((iv))

(ii) All boring logs ((shall)) must be submitted with the following information:

(A) Soil and rock descriptions and classifications;

(B) Method of sampling;

(C) Sample depth, interval and recovery;

(D) Date of boring;

(E) Water level measurements;

(F) Standard penetration number ((following approved ASTM method D1586-67));

(G) Boring location; and

(H) Soil test data(;

((v))) (in report text or on log).

(iv) All borings not converted to monitoring wells or piezometers shall be carefully backfilled, plugged, and recorded in accordance with WAC 173-160-420;

((vi))) (v) During the borehole drilling program, any on-site drilling and lithologic unit identification ((shall)) must be performed under the direction of a licensed professional in accordance with the requirements of chapter 18.220 RCW, Geologists, who is trained to sample and identify soils and bedrock lithology;

((vii))) (vi) An on-site horizontal and vertical reference datum ((shall)) must be established during the site characterization. The standards for land boundary surveys and geodetic control surveys and guidelines for the preparation of land descriptions ((shall)) must be used to establish borehole and monitoring well coordinates and casing elevations from the reference datum; and

((viii))) (vii) Other methods, including geophysical techniques, may be used to supplement the borehole program to ensure that a sufficient hydrogeologic site characterization is accomplished((?)).

(c) A site-specific flow path analysis that includes:

(i) The depths to groundwater and hydrostratigraphic unit(s) including transmissive and confining units; and

(ii) Potentiometric surface elevations and contour maps, direction and rate of horizontal and vertical groundwater flow((?)).

(d) Identification of the quantity, location, and construction (where available) of private and public wells within a two thousand-foot radius, measured from the ((site boundaries)) edge of the solid waste handling unit;

(e) Tabulation of all water rights for groundwater and surface water within a two thousand-foot ((610 m)) radius, measured from site boundaries;

(f) Identification and description of all surface waters within a one-mile ((1.6 km)) radius, measured from ((site boundaries)) the edge of the solid waste handling unit;

(g) A summary of all previously collected site groundwater and surface water analytical data, and for expanded facilities, identification of impacts of the existing facility upon ground and surface waters from landfill leachate discharges to date;

(h) Calculation of a site water balance;

(i) Conceptual design of groundwater and surface water monitoring systems, and where applicable ((a)) surface water and vadose zone monitoring systems, including proposed construction and installation methods for these systems;

(j) Description of land use in the area, including nearby residences;

(k) A topographic map of the site and drainage patterns, including an outline of the ((waste management area)) solid waste handling unit, property boundary, the proposed location of groundwater monitoring wells, and township and range designations; and

(l) Geologic cross sections.

(3) Groundwater monitoring - System design.

(a) The groundwater monitoring system design and report ((shall)) must be submitted with the permit application and ((shall)) must meet the following criteria:

(i) A sufficient number of monitoring wells ((shall)) must be installed at appropriate locations and depths to yield representative groundwater samples from those hydrostratigraphic units which have been identified ((in the)) during site characterization as the earliest potential contaminant flow-paths;

(ii) Represent the quality of groundwater at the point of compliance, and include at a minimum:

(A) A groundwater flow path analysis which supports why the chosen hydrostratigraphic unit is capable of providing an early warning detection of any groundwater contamination((?));

(B) Documentation and calculations of all of the following information:

(I) Hydrostratigraphic unit thickness including confining units and transmissive units;

(II) Vertical and horizontal groundwater flow directions including seasonal, man-made, or other short-term fluctuations in groundwater flow;

(III) Stratigraphy and lithology;

(IV) Hydraulic conductivity; and

(V) Porosity and effective porosity.

(b) Upgradient monitoring wells (background wells) ((shall)) must meet the following performance criteria:

(i) ((Shall)) Must be installed in groundwater that has not been affected by leakage from a ((landfill)) solid waste handling unit; or

(ii) If hydrogeologic conditions do not allow for the determination of an upgradient monitoring well, then sampling at other monitoring wells which provide representative background groundwater quality may be allowed.

(c) Downgradient monitoring wells (compliance wells) ((shall)) must meet the following performance criteria:

(i) Represent the quality of groundwater at the point of compliance;

(ii) Be installed as close as practical to the point of compliance; and

(iii) When physical obstacles preclude installation of groundwater monitoring wells at the ((relevant)) point of compliance ((at the landfill unit or solid waste facility)), the downgradient monitoring system may be installed at the closest practical distance hydraulically downgradient from the ((relevant)) point of compliance that ensures detection of groundwater contamination in the chosen hydrostratigraphic unit.

(d) All monitoring wells ((shall)) must be constructed in accordance with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells, and chapter 173-162 WAC, Regulation and licensing of well contractors and operators.

(e) The owner or operator ((shall)) must notify the jurisdictional health department and the department of any proposed changes to the design, installation, development, and decommission of any monitoring wells, piezometers, and other measurement, sampling, and analytical devices. Proposed changes ((shall)) must not be implemented prior to the jurisdictional health department's written approval. Upon completing changes, all documentation, including date of change, new monitoring well location maps, boring logs, and monitoring well diagrams, ((shall)) must be submitted to the

jurisdictional health department and ((shall)) must be placed in the operating record.

(f) All monitoring wells, piezometers, and other measurement, sampling, and analytical devices ((shall)) must be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

(4) Groundwater monitoring - Sampling and analysis plan.

(a) The groundwater monitoring program ((shall)) must include consistent sampling and analysis procedures that are designed to provide monitoring results that are representative of groundwater quality ((at the upgradient and downgradient)) within site monitoring wells. In addition to monitoring wells, facilities with hydraulic gradient control and/or leak detection systems will provide representative groundwater samples from those systems. The owner or operator ((shall)) must submit a compliance sampling and analysis plan as part of the permit application. The plan ((shall)) must include procedures and techniques for:

- (i) Sample collection and handling;
- (ii) Sample preservation and shipment;
- (iii) Analytical constituents and procedures;
- (iv) Chain-of-custody control;
- (v) Quality assurance and quality control;
- (vi) Decontamination of drilling and sampling equipment;
- (vii) Procedures to ensure employee health and safety during well installation and monitoring; ((and))
- (viii) Well operation and maintenance procedures; and
- (ix) Statistical analysis methods.

(b) Facilities collecting leachate ((shall)) must include leachate sampling and analysis as part of ((compliance monitoring)) the plan in (a) of this subsection.

(c) The groundwater monitoring program ((shall)) must include sampling and analytical methods that are appropriate for groundwater samples. The sampling and analytical methods ((shall)) must provide sufficient sensitivity, precision, selectivity and limited bias ((such)) so that changes in groundwater quality can be detected and quantified. All samples ((shall)) must be sent to an accredited laboratory for analyses in accordance with chapter 173-50 WAC, Accreditation of environmental laboratories.

(d) Groundwater elevations ((shall)) must be measured in each monitoring well immediately prior to sampling purging, each time groundwater is sampled. The owner or operator ((shall)) must determine the rate and direction of groundwater flow each time groundwater is sampled. All groundwater elevations ((shall)) must be determined by a method that ensures measurement to the one hundredth of a foot ((\pm mm)) relative to the top of the well casing.

(e) Groundwater elevations in monitored wells ((that monitor the same landfill unit shall)) must be measured within a period of time short enough to avoid any groundwater fluctuations which could preclude the accurate determination of groundwater flow rate and direction.

(f) The owner or operator ((shall)) must establish background groundwater quality in ((each)) all upgradient ((and downgradient)) monitoring wells, and all future downgradient monitoring wells at landfill sites where waste has not yet been deposited. Background groundwater quality ((shall))

must be based upon a minimum of eight independent samples. Samples ((shall)) must be collected for each monitoring well and ((shall)) must be analyzed for parameters required in the permit for the first year of groundwater monitoring. Each independent sampling event ((shall)) must be no ((less)) later than one month after the previous sampling event.

(g) Groundwater quality ((shall)) must be determined at each monitoring well at least quarterly during the active life of the ((solid waste facility)) landfill or impoundment, including closure and the post-closure period. More frequent monitoring may be required to protect downgradient water supply wells. Groundwater monitoring ((shall)) must begin after background groundwater quality has been established. Laboratory analysis methods must have sufficiently low detection limits, when practical, to determine whether constituent concentrations exceed chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington, criteria. The owner or operator may propose an alternate groundwater monitoring frequency((:)); however, groundwater monitoring frequency must be no less than semiannually. The owner or operator must apply for a permit modification or must apply during the renewal process for changes in groundwater monitoring frequency making a demonstration based on the following information:

(i) A characterization of the hydrostratigraphic unit(s) including the unsaturated zone, transmissive and confining units and include the following:

- (A) Hydraulic conductivity; and
- (B) Groundwater flow rates((:)).

(ii) Minimum distance between upgradient edge of the solid waste ((handling unit)) landfill and/or the impoundment and downgradient monitoring wells (minimum distance of travel); and

- (iii) Contaminant fate and transport characteristics.

(h) All facilities ((shall)) must test for the following parameters:

(i) Field parameters:

- (A) pH;
- (B) Specific conductance;
- (C) Temperature; and
- (D) Static water level((:)).

(ii) Geochemical indicator parameters:

- (A) Alkalinity (as Ca CO₃);
- (B) Bicarbonate (HCO₃);
- (C) Dissolved calcium (Ca);
- (D) Chloride (Cl);
- (E) Total and dissolved iron (Fe);
- (F) Total and dissolved magnesium (Mg);
- (G) Total and dissolved manganese (Mn);
- (H) Nitrate (NO₃);

(I) Dissolved potassium;

- (J) Dissolved sodium (Na); and
- ((J)) (K) Sulfate (SO₄)((:)).

(iii) Leachate indicators:

- (A) Ammonia (NH₃-N);
- (B) Total organic carbon (TOC); and
- (C) Total dissolved solids (TDS).

(i) If other pertinent constituents are identified based upon the site specific waste profile ((and also the)) and/or

leachate characteristics for lined facilities, if tested, the owner or operator ((shall) must) propose those additional constituents to include in the monitoring program. The jurisdictional health department ((shall) will) specify the additional constituents in the solid waste permit.

(j) Testing ((shall) must) be performed in accordance with "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," U.S. EPA Publication SW-846, or other testing methods approved by the jurisdictional health department.

(k) Maximum contaminant levels (MCL) for groundwater are those specified in chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington.

(5) Groundwater monitoring - Data analysis, notification and reporting.

(a) The results of monitoring well sample analyses as required by subsection (4)(h) and (i) of this section ((shall) must) be evaluated using an appropriate statistical procedure(s), as approved by the jurisdictional health department ((during the permitting process, to determine if) Statistical procedure(s) used must be proposed in the sampling and analysis plan, and must be capable of determining whether a significant increase over background has occurred. ((The statistical procedure(s) used shall be proposed in the sampling and analysis plan and be designed specifically for the intended site, or prescriptive statistical procedures from appropriate state and federal guidance may be used)) Selection of parameters undergoing statistical analysis, as specified in the solid waste permit, must be based on site-specific leachate analyses, synthetic precipitation leaching procedure (SPLP) results, or toxicity characteristic leaching procedure (TCLP) results, if available, and typically at least include pH, specific conductance, chloride, iron, manganese, nitrate, sulfate, ammonia, and total dissolved solids.

(b) If statistical analyses determine a significant increase over background:

(i) The owner or operator ((shall) must):

(A) Notify the jurisdictional health department and the department of this finding within thirty days of receipt of the sampling data. The notification ((shall) must) indicate what parameters or constituents have shown statistically significant increases;

(B) ((Immediately resample the groundwater for the) Within thirty days, resample parameter(s) showing statistically significant ((increase)) increase(s) in the monitoring well(s) where the statistically significant increase has occurred; and

(C) Establish a groundwater protection standard ((using) based on the groundwater quality criteria of chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington. ((Constituents for which the background concentration level is higher than the protection standard, the owner or operator shall use background concentration for constituents established in the facility's monitoring record.) If the background concentration level established in the facility's monitoring record for a constituent is greater than the numeric criterion for the constituent in chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington, the owner or operator must use the background concentration as the protection standard.

(ii) The owner or operator may demonstrate that a source other than a landfill unit or ((solid waste facility) surface impoundment) caused the contamination, or the statistically significant increase resulted from error in sampling, analyses, statistical evaluation, or natural variation in groundwater quality. If ((such) a demonstration cannot be made and the concentrations or levels of the constituents exceed the criteria established by chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington, the owner or operator must:

(A) ((Meet the criteria established by chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington, the owner or operator shall:

(I) Assess and evaluate sources of contamination; and

(II) Implement remedial measures in consultation with the jurisdictional health department and the department.

(B) ((Exceed the criteria established by chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington, the owner or operator shall:

(III) Characterize the chemical composition of the release and the contaminant fate and transport characteristics by installing additional monitoring wells;

((IV)) (B) Assess and, if necessary, implement appropriate intermediate measures to remedy the release. The measures ((shall) must) be approved by the jurisdictional health department and the department; and

((V)) (C) Evaluate, select, and implement remedial ((measures as required by) actions in accordance with chapter 173-340 WAC, ((the) Model Toxics Control Act—Cleanup ((regulation, where applicable))). The roles of the jurisdictional health department and the department in remedial action are further defined by WAC 173-350-900.

(c) The owner or operator ((shall) must) submit ((a copy of) an annual report to the jurisdictional health department and the department by April 1st of each year. ((The jurisdictional health department may require)) However, more frequent reporting ((based on the results of groundwater monitoring) may be required. Reports may be submitted to the department in either digital format or hard copy.

The annual report ((shall) must) summarize and interpret the following information:

(i) All groundwater monitoring data, including laboratory and field data for the sampling periods;

(ii) Statistical results and/or any statistical trends including any findings of any statistical increases for the year and time/concentration series plots;

(iii) A summary of concentrations above the maximum contaminant levels of chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington;

(iv) Static water level readings for each monitoring well for each sampling event;

(v) Potentiometric surface elevation maps depicting ((groundwater) flow ((rate and)) direction for each sampling event((, noting any trends or changes during the year)));

(vi) Groundwater flow velocity calculations for each sampling event, and a discussion of any trends or changes during the year;

(vii) Geochemical evaluation including cation-anion balancing and trilinear and/or stiff diagraming for each sampling

event noting any changes or trends in water chemistry for each well during the year; and

((viii)) (viii) Leachate ((analyses where appropriate)), hydraulic gradient control and/or leak detection system results, if applicable, for each sampling event.

(d) All groundwater monitoring data must be submitted consistent with procedures specified by the department. Unless otherwise specified by the department, all groundwater monitoring data for the previous year must be submitted by April 1st of each year in an electronic form capable of being transferred into the department's data management system.

AMENDATORY SECTION (Amending WSR 03-03-043 and 03-04-103, filed 1/10/03 and 2/4/03, effective 3/7/03 and 3/31/03)

WAC 173-350-600 Financial assurance requirements. (1) Financial assurance requirements - Applicability. This section is applicable to:

(a) Waste tires storage facilities ((regulated under)) subject to WAC 173-350-350;

(b) Moderate risk waste facilities ((regulated under)) storing more than nine thousand gallons of MRW on-site, excluding used oil, subject to WAC 173-350-360; and

(c) Limited purpose landfills ((regulated under)) subject to WAC 173-350-400.

(2) ((Financial assurance requirements - Definitions. For the purposes of this section, the following definitions apply:

(a) Public facility means a publicly or privately owned facility that accepts solid waste generated by other persons.

(b) Private facility means a privately owned facility maintained on private property solely for the purpose of managing waste generated by the entity owning the site.

(3)) Financial assurance requirements - Instrument options. Financial assurance options are available, based on facility type as ((defined)) specified in ((WAC 173-350-600(2), ownership and permittee)) subsection (3) of this section. Contents of all instruments must be acceptable to the jurisdictional health department. The following instrument options exist:

(a) Reserve accounts ((that are managed as either:

((i))) consisting of cash and investments accumulated ((and)) in a reserve fund restricted for ((activities identified in)) the purpose of closure or post-closure ((plans, with the equivalent amount of fund balance reserved in the fund; or

((ii))) care;

(b) Cash and investments ((held in a nonexpendable trust fund.

((b) Trust funds)) in a trust fund to receive, manage, and disburse funds for activities identified in the approved closure and post-closure plans. Trust funds ((shall)) must be established with an entity that has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency(());

(c) Surety bond(s) issued by a surety company listed as acceptable in Circular 570 of the United States Treasury Department. A standby trust fund for closure or post-closure ((shall)) must also be established by the owner or operator to

receive any funds that may be paid by the operator or surety company. The surety ((shall)) must become liable for the bond obligation if the owner or operator fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least one hundred twenty days after the owner or operator, the jurisdictional health department, and the department have received notice of cancellation. If the owner or operator has not provided alternate financial assurance acceptable under this section within ninety days of the cancellation notice, the surety ((shall)) must pay the amount of the bond into the standby closure or post-closure trust account. The following types of surety bonds are options:

(i) Surety bond; or

(ii) Surety bond guaranteeing that the owner or operator will perform final closure or post-closure activities.

(d) Irrevocable letter of credit issued by an entity ((which)) that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. Standby trust funds for closure and post-closure ((shall)) must also be established by the owner or operator to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of credit ((shall)) must be irrevocable and issued for a period of at least one year, and automatically renewed annually, unless the issuing institution notifies the owner or operator, the jurisdictional health department, and the department at least one hundred twenty days before the current expiration date. If the owner or operator fails to perform activities according to the closure or post-closure plan and permit requirements, or if the owner or operator fails to provide alternate financial assurance acceptable to the jurisdictional health department within ninety days after notification that the letter of credit will not be extended, the jurisdictional health department may require that the financial institution provide the funds from the letter of credit to the jurisdictional health department to be used to complete the required closure and post-closure activities;

(e) Insurance policies issued by an insurer who is licensed to transact the business of insurance or is eligible as an excess or surplus line insurer in one or more states, ((the content of which)) and meeting the following:

(i) Guarantees that the funds will be available to complete those activities identified in the approved closure or post-closure plans;

(ii) Guarantees that the insurer will be responsible for paying out funds for those activities;

(iii) Provides that the insurance is automatically renewable and that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium;

(iv) Provides that if there is a failure to pay the premium, the insurer may not terminate the policy until at least one hundred twenty days after the notice of cancellation has been received by the owner or operator, the jurisdictional health department and the department;

(v) Provides that termination of the policy may not occur and the policy ((shall)) must remain in full force and effect if:

(A) The jurisdictional health department determines the facility has been abandoned;

(B) Closure has been ordered by the jurisdictional health department or a court of competent jurisdiction;

(C) The owner or operator has been named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy; or

(D) The premium due is paid(());

(vi) The owner or operator is required to maintain the policy in full force and until an alternative financial assurance guarantee is provided or when the jurisdictional health department has verified that closure, and/or post-closure, as appropriate, have been completed in accordance with the approved closure or post-closure plan; and

(vii) For purposes of this rule, "captive" insurance companies as defined in WAC 173-350-100, are not an acceptable insurance company.

(f) Financial Test/corporate guarantee allows for a private corporation meeting the financial test to provide a corporate guarantee those activities identified in the closure and post-closure plans will be completed(());

(i) To qualify, a private corporation owner or operator shall meet the criteria of either option A or B:

(A) Option A - To pass the financial test under this option the private corporation ((shall)) must have:

(I) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5;

(II) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least ten million dollars; and

(IV) Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(B) Option B - To pass this alternative financial test, the private corporation ((shall)) must have:

(I) A current rating of AAA, AA, A, or BBB as issued by Standard and Poor's or ((Aaa, Aa)) AAA, AA, A, or Baa as issued by Moody's;

(II) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least ten million dollars; and

(IV) Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) The owner or operator's chief financial officer ((shall)) must provide a corporate guarantee that the corporation passes the financial test at the time the closure plan is filed. This corporate guarantee ((shall)) must be reconfirmed annually ninety days after the end of the corporation's fiscal year by submitting to the jurisdictional health department a letter signed by the chief financial officer that:

(A) Provides the information necessary to document that the owner or operator passes the financial test;

(B) Guarantees that the funds to finance closure and post-closure activities according to the closure or post-closure plan and permit requirements are available;

(C) Guarantees that closure and post-closure activities will be completed according to the closure or post-closure plan and permit requirements;

(D) Guarantees that within thirty days if written notification is received from the jurisdictional health department that the owner or operator no longer meets the criteria of the financial test, the owner or operator ((shall)) must provide an alternative form of financial assurance consistent with the requirements of this section;

(E) Guarantees that the owner or operator's chief financial officer will notify in writing the jurisdictional health department and the department within fifteen days any time that the owner or operator no longer meets the criteria of the financial test or is named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy;

(F) Acknowledges that the corporate guarantee is a binding obligation on the corporation and that the chief financial officer has the authority to bind the corporation to the guarantee;

(G) Attaches a copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and

(H) Attaches a special report from the owner or operator's independent certified public accountant (CPA) stating that the CPA has reviewed the information in the letter from the owner or operator's chief financial officer and has determined that the information is true and accurate.

(iii) The jurisdictional health department may, based on a reasonable belief that the owner or operator no longer meets the criteria of the financial test, require reports of the financial condition at any time in addition to the annual report. The jurisdictional health department will specify the information required in the report. If the jurisdictional health department finds, on the basis of ((such)) the reports or other information, that the owner or operator no longer meets the criteria of the financial test, the owner or operator ((shall)) must provide an alternative form of financial assurance consistent with the requirements of this section, within thirty days after notification by the jurisdictional health department(());

(iv) If the owner or operator fails to perform final closure and, where required, provide post-closure care of a facility covered by the guarantee in accordance with the approved closure and post-closure plans, the guarantor will be required to complete the appropriate activities(());

(v) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator, the jurisdictional health department, and the department. Cancellation may not occur, however, during the one hundred twenty days beginning on the date of receipt of the notice of cancellation by the owner or operator, the jurisdictional health department, and the department.

(vi) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of ((such)) alternate assurance from the jurisdictional health department within ninety days after receipt of a notice of cancellation of the guarantee from the guarantor, the guarantor will provide ((such)) alternative financial assurance in the name of the owner or operator.

((4)) (3) Financial assurance requirements - Eligible financial assurance instruments. The financial assurance

instruments identified in subsection ((3)) (2) of this section are available for use based on facility category and whether the permittee is a public or private entity as follows:

(a) For a public facility, ((as defined in subsection (2) of this section,)) when the permittee is a public entity, the following options are available:

- (i) Reserve account;
- (ii) Trust ((account)) fund;
- (iii) Surety bond (payment or performance); or
- (iv) Insurance((:)).

(b) For a public facility ((as defined in subsection (2) of this section, where)), when the permittee is a private entity, the following options are available:

- (i) Trust ((account)) fund;
- (ii) Surety bond (payment or performance);
- (iii) Letter of credit; or
- (iv) Insurance((:)).

(c) For private facilities ((as defined in subsection (2) of this section)), the following options are available:

- (i) Trust ((account)) fund;
- (ii) Surety bond (payment or performance);
- (iii) Letter of credit;
- (iv) Insurance; or
- (v) Financial test/corporate guarantee.

((§)) (4) Financial assurance requirements - Cost estimate for closure. The owner or operator ((shall)) must:

(a) Prepare a detailed written closure cost estimate as part of the facility closure plan. The closure cost estimate ((shall)) must:

(i) Be stated in current dollars and represent the cost of ((closing the facility,);

(ii) Provide a detailed written estimate, in current dollars, of the cost of) hiring a third party under a contract subject to chapter 39.12 RCW, Prevailing wages on public works, to close the facility at any time during the active life when the extent and manner of its operation would make closure the most expensive in accordance with the approved closure plan;

((iii)) (ii) Project ((intervals)) a schedule for withdrawal of closure funds from the closure financial assurance instrument to complete the activities identified in the approved closure plan; and

((iv))) (iii) Not ((reduce by allowance for salvage value of equipment, solid waste, or the resale value of property or land,)) use any sale value of salvage, equipment, or property or land to offset or reduce the estimated costs of activities conducted in compliance with the approved closure plan.

(b) Prepare a new closure cost estimate in accordance with (a) of this subsection whenever:

(i) Changes in ((operating)) plans of operation or facility design affect the closure plan; or

(ii) There is a change in the expected year of closure that affects the closure plan((:)).

(c) Review the closure cost estimate ((by March 1st of each calendar year)) annually. The review ((shall)) must be submitted to the jurisdictional health department, with a copy to the department, by April 1st of each calendar year stating that the review was completed and the findings of the review. The review will examine all factors, including inflation, involved in estimating the closure cost. Any cost changes

((shall)) must be factored into a revised closure cost estimate and ((submit the revised cost estimate)) submitted to the jurisdictional health department for review and approval. The jurisdictional health department ((shall)) must evaluate each cost estimate for completeness, and may accept, or require a revision of the cost estimate in accordance with its evaluation. If the jurisdictional health department approves a change in the closure cost estimate, the financial assurance instrument must be revised accordingly and submitted to the jurisdictional health department and a copy sent to the department.

((6)) (5) Financial assurance requirements - Cost estimate for post-closure. The owner or operator ((shall)) must:

(a) Prepare a detailed written post-closure cost estimate as part of the facility post-closure plan. The post-closure ((cost)) estimate ((shall)) must:

(i) Be stated in current dollars and represent the ((total)) cost of ((completing)) hiring a third party under a contract subject to chapter 39.12 RCW, Prevailing wages on public works, to conduct post-closure care activities in compliance with the approved post-closure plan for the facility ((for a twenty year post closure period or a time frame determined by the jurisdictional health department;

(ii) Provide a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post closure care for the facility in compliance with the post closure plan);

((iii)) (ii) Project ((intervals)) a schedule for withdrawal of post-closure funds from the post-closure financial assurance instrument to complete the activities identified in the ((approved)) post-closure plan; and

((iv))) (iii) Not ((reduce by allowance for)) use the sale value of salvage, ((value of)) equipment, or ((resale value of)) property or land to offset or reduce the estimated costs of activities conducted in compliance with the post-closure plan.

(b) Prepare a new post-closure cost estimate for the remainder of the post-closure care period in accordance with (a) of this subsection, whenever a change in the post-closure plan increases or decreases the cost of post-closure care((:)); and

(c) During the operating life of the facility, the owner or operator must review the post-closure cost estimate ((by March 1st of each calendar year)) annually. The review ((will)) must be submitted to the jurisdictional health department, with a copy to the department, by April 1st of each calendar year stating that the review was completed and the finding of the review. The review ((shall)) must examine all factors, including inflation, involved in estimating the post-closure cost estimate. Any cost changes ((in costs shall)) must be factored into a revised post-closure cost estimate((. The new estimate shall be)) and submitted to the jurisdictional health department for review and approval. The jurisdictional health department ((shall)) will evaluate each cost estimate for completeness, and may accept, or require a revision of the cost estimate in accordance with its evaluation. If the jurisdictional health department approves a change in the post-closure cost estimate, the financial assurance instrument must be revised accordingly and submitted to the jurisdictional health department and a copy sent to the department.

((7)) (6) Financial assurance requirements - Closure/post-closure financial assurance account establishment and reporting.

(a) Closure and post-closure financial assurance funds generated ((shall)) must be provided to the selected financial assurance instrument at the schedule specified in the closure and post-closure plans, such that adequate closure and post-closure funds will be ((generated)) available to ensure full implementation of the approved closure and post-closure plans.

(b) The facility owner or operator with systematic deposits ((shall)) must establish a procedure with the financial assurance instruments trustee for notification of nonpayment of funds to be sent to the jurisdictional health department and the department.

(c) Except for item (i) of this subdivision, the owner or operator ((shall)) satisfying the requirements of this section using a reserve or trust fund must file with the jurisdictional health department and the department, no later than April 1st of each year, an annual audit report of the financial assurance accounts established for closure and post-closure activities, and a statement of the percentage of user fees, as applicable, diverted to the financial assurance instruments, for the previous calendar year(()), including during each of the post-closure years.

(i) For facilities owned and operated by ((municipal corporations)) a public entity, the ((financial assurance accounts shall be audited)) audit must be conducted according to the audit schedule of the office of the state auditor. The audit report must be filed with the jurisdictional health department and the department and must include a certification of audit completion and summary findings ((shall be filed with the jurisdictional health department and the department, including during each of the post-closure care years)).

(ii) For facilities not owned or operated by ((municipal corporations)) a public entity:

(A) The annual audits ((shall)) must be conducted by a certified public accountant licensed in the state of Washington. The annual audit report filed with the jurisdictional health department and the department must include a certification of audit completion and summary findings ((shall be filed with the jurisdictional health department and the department, including during each of the post-closure care years.)); and

(B) The annual audit ((shall)) report must also include, as applicable, calculations demonstrating the proportion of closure or post-closure, completed during the preceding year as specified in the closure and post-closure plans.

(d) Established financial assurance accounts ((shall)) must not constitute an asset of the facility owner or operator.

(e) Any income ((accruing to)) in the established financial assurance account(s) ((will)) may be used at the owner's discretion upon approval ((ef)) by the jurisdictional health department.

((8)) (7) Financial assurance requirements - Fund withdrawal for closure and post-closure activities.

(a) The owner or operator will withdraw funds from the closure and/or post-closure financial assurance instrument as specified in the approved closure/post-closure plans(()).

(b) If the withdrawal of funds from the financial assurance instrument exceeds by more than five percent the withdrawal schedule stated in the approved closure and/or post-closure plan over the life of the permit, the closure and/or post-closure plan ((shall)) must be amended.

(c) After verification by the jurisdictional health department of facility closure, excess funds remaining for closure in a financial assurance account ((shall)) must be released to the facility owner or operator.

(d) After verification by the jurisdictional health department of facility post-closure, excess funds remaining for post-closure in a financial assurance account ((shall)) must be released to the facility owner or operator.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-700 Permits and local ordinances. (1) Permit required.

(a) Except for (b) and (c) of this subsection, no solid waste storage, treatment, processing, handling, recycling, or disposal facility ((shall)) may be maintained, established, substantially altered, expanded, or improved until the person operating or owning ((such)) the site has obtained a permit or permit deferral from the jurisdictional health department, or a beneficial use exemption from the department pursuant to the provisions of this chapter, or is operating in compliance with all terms of a conditionally exempt solid waste handling activity identified in this chapter. Facilities operating under ((categorical)) conditional exemptions established by this chapter ((shall)) must meet all the conditions of ((such)) the exemptions or ((will)) may be required to obtain a permit under this chapter(()) and may be subject to the enforcement provisions of RCW 70.95.315. Facilities that meet the terms and conditions for exemption under one standard may require permitting for other nonexempt activities on-site. Facilities may operate under multiple exemptions from permitting if they meet all conditions for each section. In addition, persons dumping or depositing solid waste without a permit in violation of this chapter ((shall be)) are subject to the penalty provisions of RCW 70.95.240.

(b) ((Permits issued under this chapter are not required for remedial actions performed by the state and/or in conjunction with the United States Environmental Protection Agency to implement)) Pursuant to RCW 70.105D.090, permits issued under this chapter are not required for remedial actions performed by the department under chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act, or by a potentially liable person under a consent decree, order, or agreed order issued under chapter 70.105D RCW. Hazardous waste cleanup—Model Toxics Control Act. If the substantive requirements of this chapter are not met, permits may still be required. Permits issued under this chapter may still be required for independent remedial actions, as defined in RCW 70.105D.020, including those performed under the voluntary cleanup program authorized under RCW 70.95.105D.030 (1)(i).

(c) Pursuant to section 121(1)(e) of the Comprehensive Environmental Response Compensation and Liability Act ((ef 1980)) (CERCLA), 42 U.S.C. Sec. 9621(1)(e), permits

issued under this chapter are not required for any removal or remedial action((s taken by others to comply with a state and/or federal cleanup order or consent decree)) performed by the U.S. Environmental Protection Agency under CERCLA or by a potentially responsible party under a consent decree or administrative order issued under CERCLA. If the substantive requirements of this chapter are not met, permits may still be required.

((e))) (d) Any jurisdictional health department and the department may enter into an agreement providing for the exercise by the department of any power that is specified in the contract and that is granted to the jurisdictional health department under chapter 70.95 RCW, Solid waste management—Reduction and recycling. However, the jurisdictional health department ((shall)) must have the approval of the legislative authority or authorities it serves before entering into any ((such)) agreement with the department.

(2) **Local ordinances.** Each jurisdictional health department ((shall)) must adopt local ordinances implementing this chapter not later than one year after the effective date of this chapter, and ((shall)) must file the ordinances with the department within ninety days following local adoption. Local ordinances ((shall)) must not be less stringent than this chapter, but may include additional requirements provided additional requirements do not conflict with state or federal statutes.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-710 Permit application and issuance.

(1) Permit application process.

(a) Any owner or operator required to obtain a solid waste permit ((shall)) must apply ((for a permit from)) to the jurisdictional health department on forms prescribed by the department. All permit application filings ((shall)) must include two copies of the application. An application ((shall)) may not be considered complete by the jurisdictional health department until all the information required under WAC 173-350-715 and the applicable section(s) of this chapter has been submitted.

(b) The jurisdictional board of health ((department)) may establish reasonable fees for permits, permit modifications, and renewal of permits. All permit fees collected by the health department ((shall)) must be deposited in the account from which the health department's operating expenses are paid.

(c) Once the jurisdictional health department determines that an application for a permit is complete, it ((shall)) must:

(i) Refer one copy to the appropriate regional office of the department for review and comment and include correspondence indicating that the jurisdictional health department has determined that the application is complete;

(ii) Investigate every application to determine whether the ((facilities)) facility meets all applicable laws and regulations, ((conform to)) is not in conflict with the approved comprehensive solid waste management plan and/or the approved

hazardous waste management plan, and ((comply)) complies with all zoning requirements; and

((iii) When the application is for a permit to establish or modify a solid waste handling facility located in an area that is not under a quarantine, as defined in RCW 17.24.007, and when the facility will receive material for composting, from an area under a quarantine, the jurisdictional health department must also provide a copy of the application to the Washington state department of agriculture. The Washington state department of agriculture will review the application to determine whether it contains information demonstrating that the proposed facility presents a risk of spreading disease, plant pathogens, or pests to areas that are not under a quarantine. Within forty-five days, the Washington state department of agriculture will report its findings to the jurisdictional health department and department.

(d) Once the department has received a complete application for review, it ((shall)) will:

(i) Ensure that the proposed ((site or)) facility conforms with all applicable laws and regulations including ((the minimum functional standards for solid waste handling)) this chapter;

(ii) Ensure that the proposed ((site or)) facility ((conforms to)) is not in conflict with the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan; and

((iii) Recommend for or against the issuance of ((each)) the permit by the jurisdictional health department within forty-five days of receipt of a complete application.

((e) Application procedures for statewide beneficial use exemptions and permit deferrals are contained in WAC 173-350-200 and 173-350-710(8), respectively.))

(2) Permit issuance.

(a) When the jurisdictional health department has evaluated all pertinent information, it may issue or deny a permit. ((Every solid waste permit application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department.)) The jurisdictional health department must approve or disapprove every complete solid waste permit application within ninety days of its determination that the application is complete. Every permit issued by a jurisdictional health department ((shall)) must contain specific requirements necessary for the proper operation of the permitted ((site or)) facility.

(b) Every permit issued ((shall)) may be valid for a period not to exceed five years at the discretion of the jurisdictional health department. If a permit is to be issued for longer than one year, the jurisdictional health department may hold a public hearing before making a decision.

(c) Jurisdictional health departments ((shall)) must file all issued permits with the appropriate regional office of the department no more than seven days after the date of issuance. No solid waste permit issued pursuant to RCW 70.95-180 will be considered valid unless it has been reviewed by the department.

(d) The department ((shall)) will review ((the)) each permit ((in accordance with RCW 70.95.185)) and report its findings to the jurisdictional health department in writing within thirty days of permit issuance.

(e) ((The)) Jurisdictional health departments ((is authorized to)) may issue one solid waste handling permit ((for a location where)) covering multiple ((solid waste handling)) activities ((occur, provided all activities meet the applicable requirements of this chapter)) at the same site, or multiple solid waste handling permits may be issued for a single facility with multiple activities.

(3) Permit renewals.

(a) Prior to renewing a permit, the jurisdictional health department ((shall)) will conduct a review as it deems necessary to ensure that ((the)) solid waste handling ((facility or facilities located)) on the site continues to:

(i) Meet the solid waste handling standards of the department;

(ii) Comply with all applicable ((local)) laws and regulations; and

(iii) ((Conform to)) Not conflict with the approved solid waste management plan and/or the approved hazardous waste management plan.

(b) A jurisdictional health department ((shall)) must approve or deny a permit renewal within forty-five days of conducting its review.

(c) Every permit renewal ((shall)) will be valid for a period not to exceed five years at the discretion of the jurisdictional health department. If a permit is to be renewed for longer than one year, the jurisdictional health department may hold a public hearing before making a decision.

(d) Jurisdictional health departments must file all issued permit renewals with the appropriate regional office of the department not more than seven days after the date of issuance. No permit renewal issued pursuant to RCW 70.95.190 will be considered valid unless it has been reviewed by the department.

(e) The department ((shall)) will review the renewal ((in accordance with RCW 70.95.190)) and report its findings to the jurisdictional health department in writing within thirty days of issuance of the permit renewal.

((e) The jurisdictional board of health may establish reasonable fees for permits reviewed under this section. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.))

(4) Permit modifications.

(a) Any ((significant)) change to the operation, design, site or processing capacity, performance, or monitoring of a permitted facility ((may)) requires a modification to the permit. The following procedures shall be followed by an owner or operator prior to making any change in facility operation, design, performance or monitoring:

(a) The facility owner or operator shall consult with the jurisdictional health department regarding the need for a permit modification;

(b) The jurisdictional health department shall determine whether the proposed modification is significant. Upon such a determination, the owner or operator shall make application for a permit modification, using the process outlined in subsections (1) through (3) of this section; and

(e) If a proposed change is determined to not be significant and not require a modification to the permit, the department shall be notified)) when such a change is tied to a regu-

latory design or operating standard in this chapter. A modification request must include the following information:

(i) A description of the proposed modification;

(ii) The reasons for the proposed modification;

(iii) A description of the impacts from the proposed modification upon the solid waste facility as presently permitted;

(iv) A showing that, as modified, the solid waste facility will be capable of compliance with the applicable requirements of this regulation; and

(v) Any other information as required by the jurisdictional health department.

(b) If the jurisdictional health department and the department determine that the proposed modification is significant, the procedures of subsection (1) of this section will be followed except that:

(i) The department will report its findings to the jurisdictional health department within thirty days;

(ii) The jurisdictional health department will approve or disapprove the modification request within forty-five days after its receipt of a complete application; and

(iii) If the jurisdictional health department and the department determine that the procedures of subsection (1) of this section are not necessary, any written form of communication documenting the deliberation and decision related to the permit modification request is sufficient.

(c) The jurisdictional health departments must file approved modifications with the appropriate regional office of the department no more than seven days after the date of issuance. No solid waste permit modification issued pursuant to RCW 70.95.180 will be considered valid unless it has been reviewed by the department.

(5) Inspections.

(a) At a minimum, jurisdictional health departments must conduct annual inspections of all permitted solid waste facilities ((shall be performed by the jurisdictional health department, unless otherwise specified in this chapter)).

(b) All facilities and sites ((shall)) must be physically inspected prior to issuing a permit, permit renewal, or permit modification.

(c) Any duly authorized representative of the jurisdictional health department may enter and inspect any property, premises or place at any reasonable time for the purpose of determining compliance with this chapter, and relevant laws and regulations. Findings ((shall)) must be noted and kept on file. A copy of the inspection report or annual summary ((shall)) must be furnished to the site operator.

(6) Permit transfers.

(a) No solid waste permit may be transferred to a new owner or operator without first obtaining approval from the jurisdictional health department by submitting an application specified by the jurisdictional health department and the department pursuant to subsection (1) of this section.

(b) The application must include at least the following:

(i) The name and all contact information of the new owner or operator (applicant);

(ii) A demonstration that a new owner or operator is capable of operating the facility in compliance with all the applicable requirements of this regulation and the solid waste permit conditions;

(iii) If applicable, financial assurance pursuant to WAC 173-350-600. Existing financial assurance must remain in place by the currently permitted owner or operator until this requirement is met;

(iv) An original signature pursuant to WAC 173-350-715(3); and

(v) Any other information as required by the jurisdictional health department.

(c) The jurisdictional health department is authorized to require a new solid waste permit application pursuant to all procedures of subsection (1) of this section if it determines the requirement is warranted.

(7) Permit suspension and appeals.

(a) Any permit for a solid waste handling facility ((shall be)) is subject to suspension at any time the jurisdictional health department determines that the ((site or the)) solid waste handling facility is being operated in violation of this chapter, conditions of the solid waste permit, the rules of the Washington state department of agriculture, or local laws and regulations.

(b) Whenever the jurisdictional health department denies a permit or suspends a permit for a solid waste handling facility, it ((shall)) must:

(i) Upon request of the applicant or holder of the permit, grant a hearing on ((such)) the denial or suspension within thirty days after the request;

(ii) Provide notice of the hearing to all interested parties including the county or city having jurisdiction over the site and the department; and

(iii) Within thirty days after the hearing, notify the applicant or the holder of the permit in writing of the determination and the reasons therefore. Any party aggrieved by ((such)) the determination may appeal to the pollution control hearings board by filing with the board a notice of appeal within thirty days after receipt of notice of the determination of the health officer.

(c) If the jurisdictional health department denies a permit renewal or suspends a permit for an operating waste recycling facility that receives waste from more than one city or county, and the applicant or holder of the permit requests a hearing or files an appeal under this section, the permit denial or suspension ((shall)) will not be effective until the completion of the appeal process under this section, unless the jurisdictional health department declares that continued operation of the waste recycling facility poses a very probable threat to human health ((and)) or the environment.

((d) Procedures for appealing beneficial use exemption determinations are contained in WAC 173-350-200 (5)(g).

(7)) (8) Variances.

(a) Any person ((who owns or operates a solid waste handling facility subject to a solid waste permit under WAC 173-350-700,)) subject to the solid waste permitting requirements of this section may apply to the jurisdictional health department for a variance from any section of this chapter((,-)) except that no variance ((shall)) will be granted for requirements specific to chapter 70.95 RCW, Solid waste management—Reduction and recycling. ((The application shall be accompanied by such information as the jurisdictional health department may require. The jurisdictional health department

may grant such variance, but only after due notice or a public hearing if requested, if it finds that:

(i) The solid waste handling practices or location do not endanger public health, safety or the environment; and

(ii) Compliance with the section from which variance is sought would produce hardship without equal or greater benefits to the public.

(b) No variance shall be granted pursuant to this section until the jurisdictional health department has considered the relative interests of the applicant, other owners of property likely to be affected by the handling practices and the general public.

(c) Any variance or renewal shall be granted within the requirements of subsections (1) through (3) of this section and for time period and conditions consistent with the reasons therefore, and within the following limitations:

(i) If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement, or control of pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternative measures that the jurisdictional health department may prescribe;

(ii) The jurisdictional health department may grant a variance conditioned by a timetable if:

(A) Compliance with this chapter will require spreading of costs over a considerable time period; and

(B) The timetable is for a period that is needed to comply with the chapter.

(d) An application for a variance, or for the renewal thereof, submitted to the jurisdictional health department shall be approved or disapproved by the jurisdictional health department within ninety days of receipt unless the applicant and the jurisdictional health department agree to a continuance.

(e) No variance shall be granted by a jurisdictional health department except with the approval and written concurrence of the department prior to action on the variance by the jurisdictional health department.

((g))) Requests for variances must be made during the application process in subsection (1) of this section or the permit modification process in subsection (4) of this section.

(b) Any variance request must contain sufficient information and justification for the jurisdictional health department and department to determine if a variance request should be approved including a demonstration that compliance with the section from which variance is sought would produce hardship without equal or greater benefits to the public.

(c) Any variance request granted by the jurisdictional health department requires written concurrence by the department.

(d) Variances may be granted for a limited time period if deemed appropriate by the jurisdictional health department and department.

(e) All variances must be reviewed annually as part of the permit review process in subsection (5)(a) of this section.

(9) Permit deferral.

(a) A jurisdictional health department may, at its discretion and with the concurrence of the department, waive the

requirement that a solid waste permit be issued for a facility under this chapter by deferring to other air, water, or environmental permits issued for the facility which provide an equivalent or superior level of environmental protection.

(b) The requirement to obtain a solid waste permit from the jurisdictional health department ((shall)) will not be waived for any transfer station, landfill, or incinerator that receives municipal solid waste destined for final disposal.

(c) Any deferral of permitting or regulation of a solid waste facility granted by the department or a jurisdictional health department prior to June 11, 1998, ((shall)) will remain valid and ((shall)) will not be affected by this subsection.

(d) Any person who owns or operates ((~~an applicable~~)) a solid waste handling facility subject to obtaining a solid waste permit may apply to the jurisdictional health department for permit deferral. Two copies of an application for permit deferral ((shall)) must be signed by the owner or operator and submitted to the jurisdictional health department. Each application for permit deferral ((shall)) must include:

(i) A description of the solid waste handling units for which the facility is requesting deferral;

(ii) A list of the other environmental permits issued for the facility;

(iii) A ((demonstration that identifies each requirement of this chapter and a)) detailed description of how the other environmental permits will provide an equivalent or superior level of environmental protection;

(iv) Evidence that the facility is ((in conformance)) not in conflict with the approved comprehensive solid waste management plan and/or the approved hazardous waste management plan;

(v) Evidence of compliance with chapter 197-11 WAC, SEPA rules, including the SEPA lead agency's determination; and

(vi) Other information that the jurisdictional health department or the department may require.

(e) When the permit deferral application is for a solid waste handling facility located in an area that is not under a quarantine, as defined in RCW 17.24.007, and when the facility will receive material for composting, from an area under a quarantine, the jurisdictional health department must also provide a copy of the application to the Washington state department of agriculture. The Washington state department of agriculture will review the application to determine whether it contains information demonstrating that the proposed facility presents a risk of spreading disease, plant pathogens, or pests to areas that are not under a quarantine. Within forty-five days, the Washington state department of agriculture must report its findings to the jurisdictional health department and department.

(f) The jurisdictional health department ((shall)) must notify the applicant if it elects not to waive the requirement that a solid waste permit must be issued for a facility under this chapter. If the jurisdictional health department elects to proceed with permit deferral, it ((shall)) must:

(i) ((Forward)) Refer one copy of the complete deferral application to the appropriate regional office of the department for review and written concurrence;

(ii) Notify the permit issuing authority or authorities for the other environmental permits described in (d)(ii) of this subsection and allow ((~~an~~) a thirty day opportunity for comment; and

(iii) Determine if the proposed permit deferral provides an equivalent or superior level of environmental protection.

((g)) (g) The department ((shall)) will provide a written ((~~report of its findings to the jurisdictional health department and recommend for or against the permit deferral. The department shall provide its findings~~)) concurrence or denial for the permit deferral within forty-five days of receipt of a complete permit deferral application or inform the jurisdictional health department as to the status with a schedule for its determination.

((h)) (h) No solid waste permit deferral ((shall)) will be effective unless the department has provided written concurrence. All requirements for solid waste permitting ((shall)) remain in effect until the department has provided written concurrence.

((i)) (i) When the jurisdictional health department has evaluated all information, it ((shall)) must provide written notification to the applicant and the department whether or not it elects to waive the requirement that a solid waste permit be issued for a facility under this chapter by deferring to other environmental permits issued for the facility. Every complete permit deferral application ((shall)) must be approved or denied within ninety days after its receipt by the jurisdictional health department or the owner or operator ((shall)) must be informed as to the status of the application with a schedule for final determination.

((j)) (j) The jurisdictional health department must send any approval for a permit deferral to the appropriate regional office of the department within seven days of issuance.

(k) The jurisdictional health department ((shall)) must revoke any permit deferral if it or the department determines that the other environmental permits are providing a lower level of environmental protection than a solid waste permit. Jurisdictional health departments ((shall)) must notify the facility's owner or operator of intent to revoke the permit deferral and direct the owner or operator to take measures necessary to protect human health and the environment and to comply with the permit requirements of this chapter.

((l)) (l) Facilities ((which are)) operating under ((the)) a solid waste permit deferral ((of solid waste permitting)) to other environmental permits ((shall)) must:

(i) Allow the jurisdictional health department or the department, at any reasonable time, to inspect the solid waste handling ((units)) facility which ((have)) has been granted a permit deferral;

(ii) Notify the jurisdictional health department and the department whenever changes are made to the other environmental permits identified in (d)(ii) of this subsection. This notification ((shall)) must include a detailed description of how the changes will affect the facility's operation and ((a demonstration)) how, as described in (d)(iii) of this subsection, ((that)) the amended permits continue to provide an equivalent or superior level of environmental protection to the deferred solid waste permits. If the amended permits no longer provide an equivalent or superior level of environmental protection, the facility owner or operator ((shall)) must

close the solid waste handling ((unit)) facility or apply for a solid waste permit from the jurisdictional health department according to procedures of subsection (1) of this section;

(iii) Notify the jurisdictional health department and the department within seven days of discovery of any violation of, or failure to comply with, the conditions of the other environmental permits identified in (d)(ii) of this subsection;

(iv) Notify the jurisdictional health department of any enforcement actions taken as a result of noncompliance with the permit(s) that have been deferred to;

(v) Prepare and submit ((a copy of)) an annual report to the jurisdictional health department and the department by April 1st as required under the appropriate annual reporting sections of this chapter;

((v))) (vi) Operate in accordance with any other written conditions that the jurisdictional health department deems appropriate; and

((vi)) (vii) Take any measures deemed necessary by the jurisdictional health department when the permit deferral has been revoked.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-715 General permit application requirements. (1) Every permit application ((shall)) must be ((on)) in a format ((supplied)) prescribed by the department and ((shall)) must contain at a minimum the following information:

(a) Contact information for the facility owner, ((and)) the facility operator, and property owner if different, including contact name, company name, mailing address, uniform business identifier number, phone number, fax number, and email;

(b) Identification of the type of ((facility)) solid waste handling that is to be permitted;

(c) Identification of any other permit (local, state, or federal) in effect at the site;

(d) A vicinity plan or map (having a minimum scale of 1:24,000) that ((shall)) shows the area within one mile ((1.6 km)) of the property boundaries of the facility in terms of the existing and proposed zoning and land uses within that area, residences, and access roads, and other existing and proposed man-made or natural features that may impact the operation of the facility;

(e) Evidence of compliance with chapter 197-11 WAC, SEPA rules, including the SEPA lead agency's determination;

(f) Information as required under the appropriate facility permit application subsections of this chapter; and

(g) Any additional information as requested by the jurisdictional health department or the department.

(2) Engineering plans, reports, specifications, programs, and manuals submitted to the jurisdictional health department or the department ((shall)) must be prepared and certified by ((an individual licensed to practice engineering)) a professional engineer registered in the state of Washington, in an engineering discipline appropriate for the solid waste facility type or activity.

(3) Signature and verification of applicants:

(a) All applications for permits ((shall)) must be accompanied by evidence of authority to sign the application and ((shall)) must be signed by the owner or operator as follows:

(i) In the case of corporations, by a duly authorized principal executive officer of at least the level of vice president; in the case of a partnership or limited partnership, by:

(A) A general partner;

(B) Proprietor; or

(C) In case of sole proprietorship, by the proprietor((s));

(ii) In the case of a municipal, state, or other government entity, by a duly authorized principal executive officer or elected official.

(b) Applications ((shall)) must be signed or attested to by, or on behalf of, the owner or operator, in respect to the veracity of all statements therein; or ((shall)) must bear an executed statement by, or on behalf of, the owner or operator to the effect that false statements made therein are made under penalty of perjury.

(c) The signature of the applicant ((shall)) must be notarized on the permit application form.

AMENDATORY SECTION (Amending WSR 03-03-043, filed 1/10/03, effective 2/10/03)

WAC 173-350-900 Remedial action. When the owner or operator of a solid waste facility permitted under this chapter is subject to remedial ((measures in compliance with)) action under the authority of chapter 70.105D. Hazardous waste cleanup—Model Toxics Control Act, and chapter 173-340 WAC, ((the)) Model Toxics Control Act—Cleanup, the roles of the jurisdictional health department and the department ((shall be)) are as follows:

(1) The jurisdictional health department:

(a) May participate in all negotiations, meetings, and correspondence between the owner and operator and the department in implementing the ((model toxics control)) remedial action;

(b) May comment upon and participate in all decisions made by the department in assessing, choosing, and implementing a remedial action ((program));

(c) ((Shall)) Must require the owner or operator to continue any remaining activities for the operation, closure, and post-closure ((activities)) of the facility as appropriate under this chapter, after remedial actions ((measures)) are completed; and

(d) ((Shall continue to regulate all solid waste facilities during construction, operation, closure and post-closure, that are not directly impacted by chapter 173-340 WAC.)) Must exercise its authority for permitting any solid waste handling at the facility that is not addressed through requirements of a remedial action conducted under any consent decree, order, or agreed order issued by the department for the implementation of the remedial action, including permit modifications that may be necessary to address impacts on solid waste handling due to remedial actions.

(2) The department ((shall carry out all the responsibilities assigned to it by chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act.));

(a) Must follow the requirements of chapter 173-340, Model Toxics Control Act—Cleanup, regarding permits and exemptions from applicable local, state, and federal laws to ensure that the remedial action complies with the substantive provisions of chapter 70.95 RCW, Solid waste management—Reduction and recycling, and the substantive provision of any laws requiring or authorizing local government permits or approvals; and

(b) Must review and comment on any solid waste permitting activities conducted by the jurisdictional health department regarding the facility.

(3) Nothing in this section is intended to prohibit a jurisdictional health department from charging a fee to the person conducting the remedial action to defray the costs of services rendered relating to the substantive requirements for the remedial action.

NEW SECTION

WAC 173-350-980 Severability. If any provision of this rule or its application to any covered person, facility, or circumstance is held invalid, the remainder of the rule or application of the provision to other covered persons, facilities, or circumstances is not affected.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-350-990 Criteria for inert waste.

**WSR 18-03-171
PROPOSED RULES
GAMBLING COMMISSION**

[Filed January 23, 2018, 2:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-20-085.

Title of Rule and Other Identifying Information: New WAC 230-05-175 Individual license fees.

Hearing Location(s): On March 15, 2018, at 1:00 p.m., at the Hampton Inn and Suites, 4301 Martin Way East, Olympia, WA 98516. Hearing will take place at the March commission meeting. The meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov about seven days before the meeting, select "March Commission meeting" to confirm the hearing date, location, and start time.

Date of Intended Adoption: March 15, 2018.

Submit Written Comments to: Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, fax 360-486-3624, by March 1, 2018.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov, by March 1, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The key rule in

this third rule package sets the individual license fees under the new license fee structure. The key changes to individual license fees in this third package:

- Establishes the license fees for individuals. There are basically two annual license fee schedules for individuals:

License Type	New Application Fee	Renewal Fees
Class F and HBCR card room employees and all representatives	\$275 (in-state fee for CREs)	\$170
Nonhouse-banked card room employees, charitable or nonprofit gambling manager, and commercial gambling manager	\$200	\$95

- Requires all representatives to apply and pay a fee when adding or changing employers consistent with all other individual licensees. The fees are consistent with other fees for this transaction.
- Outlines in rule the card room employees required to pay "out-of-state" new application fees.

Reasons Supporting Proposal: The current fee structure was created over forty years ago. It began with twenty-five fees. Today the gambling commission has approximately one hundred ninety-four different fees for commercial and non-profit organizations and individuals. The gambling commission recently adopted rules amending the current organizational fee structure to simplify the current system allowing it to be easier to navigate and have a licensing fee schedule that is more predictable for both the agency and its licensees. These proposed rules amend license fees for individuals and align these rules with the new fee structure.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: RCW 9.46.070.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Tina Griffin, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3546; and Implementation: David Trujillo, Director, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3512.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of

RCW 19.80.045; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

January 23, 2018
 Brian J. Considine
 Legal and Legislative Manager

NEW SECTION

WAC 230-05-175 Individual license fees. Individuals must pay the following fees:

(1) Annual license and additional employer fees:

License Type	New Application Fee	Annual Renewal Fee	Additional or Change of Employer Fee
Call center for enhanced raffle representative	\$275	\$170	-
Card room employee license - Nonhouse-banked (Class A)	\$200	\$95	\$65
Card room employee license - Class F and house-banked (Class B)	\$275 (in-state) \$340 (out-of-state)	\$170	\$65
Charitable or nonprofit gambling manager	\$200	\$95	\$95
Commercial gambling manager	\$200	\$95	\$95
Distributor representative	\$275	\$170	\$65
Linked bingo prize provider representative	\$275	\$170	\$65
Manufacturer representative	\$275	\$170	\$65
Gambling service supplier representative	\$275	\$170	\$65

(2) Class B card room employees must pay the out-of-state application fee if over the last ten years the applicant lived outside of Washington for six nonconsecutive months or more.

(3) Other service fees:

Transaction	Fee
Change of name	\$30
Card room employee emergency waiver request	\$65
Duplicate license	\$30

(4) Military personnel returning from service. If a license expires while an individual is on active military service, the individual may apply to have their license reissued at the renewal fee. The application must be received within six months after completing their active military service. The applicant must provide evidence of the completion date of active military service.

data reporting. The purpose is to (1) repeal duplicative certification requirements in this chapter which are now covered in the department of ecology's (ecology) accreditation of environmental laboratories, chapter 173-50 WAC; (2) add reporting requirements for labs to send analytical data results to public water systems and the department of health (department); and (3) adopt into the chapter (by reference), lab guidance and test panel templates for submitting written and electronic analytical data results.

Hearing Location(s): On March 14, 2018, at 1:30 p.m., at the Department of Health, Point Plaza East, Room 152/153, 310 Israel Road S.E., Tumwater, WA 98501, <https://www.doh.wa.gov/AboutUs/BusinessHoursandLocations/TumwaterPointPlazaEast>.

Date of Intended Adoption: March 14, 2018.

Submit Written Comments to: Theresa Phillips, Rules Project Manager, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, email <https://fortress.wa.gov/doh/policyreview>, <https://www.doh.wa.gov/CommunityandEnvironment/DrinkingWater/RegulationandCompliance/RuleMaking>, by February 27, 2018.

Assistance for Persons with Disabilities: Contact Melanie Hisaw, phone 360-236-4104, TTY 360-833-6388 or 711, email melanie.hisaw@sboh.wa.gov, by February 28, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal makes necessary amendments to chapter 246-390 WAC to remove certification requirements that are under ecology's rule, chapter 173-50 WAC, and to add reporting requirements to assure consistent and reliable reporting of analytical data results from labs to public water systems and the department. The proposal will enable public water systems and the department to respond quickly to drinking water quality

WSR 18-03-175

PROPOSED RULES

STATE BOARD OF HEALTH

[Filed January 24, 2018, 7:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 06-23-077.

Title of Rule and Other Identifying Information: Chapter 246-390 WAC, Drinking water laboratory certification and

problems and protect public health when contaminants are detected.

Reasons Supporting Proposal: The department and ecology established a cooperative program for certifying labs. Ecology carries out the evaluation and certification of drinking water labs, while the department maintains an oversight role under a primacy agreement with the United States Environmental Protection Agency (EPA). Ecology's rules do not contain provisions specifying reporting requirements. This proposal is necessary to assure consistent and reliable reporting of data and to improve the department's ability to assure public health protection.

Statutory Authority for Adoption: RCW 43.20.050 and 70.119A.080.

Statute Being Implemented: RCW 43.20.050 and 70.119A.080.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state board of health, governmental.

Name of Agency Personnel Responsible for Drafting: Theresa Phillips, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3147; **Implementation and Enforcement:** Derrick Dennis, 243 Israel Road S.E., Tumwater, WA 98501, 360-236-3122.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Theresa Phillips, Rules Project Manager, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3147, TTY 360-833-6388 or 711, email theresa.phillips@doh.wa.gov, <https://www.doh.wa.gov/CommunityandEnvironment/DrinkingWater/RegulationandCompliance/RuleMaking>.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Is exempt under RCW 34.05.328.

Explanation of exemptions: WAC 246-390-001 and 246-390-040 are exempt under RCW 34.05.310 (4)(d) because the proposed rule clarifies language of the rule without changing its effect. WAC 246-390-050, 246-390-060 and 246-390-070 are exempt under RCW 34.05.310 (4)(e) because the proposed rule repeals these sections which are under the authority of ecology. WAC 246-390-100 is exempt because the proposed rule is procedural. WAC 246-390-990 is exempt under RCW 34.05.310 (4)(f) because the fees no longer apply.

The proposed rule does impose more-than-minor costs on businesses. In November 2002, the department transferred

implementation of the drinking water lab certification program to ecology through a memorandum of understanding (MOU). Under the MOU, ecology carries out the evaluation and certification of drinking water labs, while the department maintains an oversight role per our primacy agreement with EPA.

As a result of the MOU with ecology to certify environmental labs for drinking water analytes, ecology adopted rules for certifying labs under chapter 173-50 WAC, Accreditation of environmental laboratories, to include drinking water analysis. However, ecology's rule does not contain provisions specifying reporting requirements for drinking water sample results to the department. Amending the state board of health's (board) rule to include reporting requirements is [are] necessary to assure consistent and reliable reporting of data to enable water systems to respond quickly to water quality problems, and to improve the department's ability to assure public health protection. The board initiated rule making to be consistent with the functional changes brought by the transfer of the certification program to ecology, and to add reporting requirements to chapter 246-390 WAC, Drinking water certification rules.

The proposed rule making will:

(1) Remove duplicative certification requirements in ecology's rule with the board's rule to clarify the roles and responsibilities of each agency;

(2) Establish reporting requirements to ensure accurate, consistent, and timely reporting of drinking water sample analysis results; and

(3) Rename the rule chapter to better reflect its purpose "drinking water laboratory certification and data reporting."

The proposed rule affects labs that are certified to analyze drinking water samples. The proposed revisions to this chapter adopt specific requirements from the Group A rule and federal requirements. The *Manual for the Certification of Laboratories Analyzing Drinking Water, Fifth Edition, EPA 815-R-05-004, January 2005*, specifically applies to how labs obtain certification, how they maintain certification, and how they may lose certification. 40 C.F.R. Parts 141 and 143 lists EPA-approved drinking water analytical methods for individual analytes as well as the achievable minimum detection limits of each method, known in this chapter as "state detection reporting limits."

Many of the labs have a database, Laboratory Information Management Systems (LIMS), which they use to manage environmental samples from sample receipt, analysis, and sample reporting and billing. Some of the proposed requirements will require labs to reprogram some of the features of their LIMS. This may need the assistance of IT support from the LIMS vendor to program their systems and incur additional costs (analyzed below) for beta testing the system changes.

The following North American Industry Classification System (NAICS) codes identify which businesses are required to comply with the proposed rules and what the minor cost thresholds are.

NAICS Code 541380, business description "testing laboratories," number of businesses in Washington "188," minor cost threshold equals one percent of average annual payroll

"\$10,022.18," from 2015 NAICS Data, United States Census Bureau.

NAICS Code 541380, business description "testing laboratories," number of businesses in Washington "177," minor cost threshold equals .3 percent of average annual receipts "\$5,990.46," from 2012 United States Census, 188,417,000, 177,353,437

To analyze the probable costs of compliance and to gauge the potential impact of the proposed rule, the department surveyed all one hundred twenty-five labs that are currently licensed. The department received twenty-seven responses to the survey. Fourteen labs indicated that they would have no costs to comply with the proposed rule. Labs provided cost estimates for three categories of costs: One-time costs, annual costs, and unit costs (which is the estimated cost to complete an activity once). Neither the labs nor the department are capable of estimating the frequency or total amount of "unit cost" events, thus these costs are identified but indeterminate in the cumulative sense.

Thirteen labs indicated that they would have a cost to comply with the proposed rule. The total cost of the rule for these respondents was \$432,962 (\$128,343 for one-time costs and \$304,620 for annual costs). Lab costs ranged from \$97 to \$289,105, and had an average cost of \$16,081 for all twenty-seven respondents. After removing one outlier respondent (an estimated cost of \$289,105), the average cost of the proposed rule was \$5,571 per lab (for the remaining twenty-six respondents). These estimates do not include unit costs, which ranged from \$5 to \$300 for the eight labs that reported unit costs.

For the respondents that indicated a cost to comply with the proposed rule, each indicated that they would incur costs in at least one, or more typically several, of the cost categories listed above (i.e., equipment, supplies, labor, professional services and administrative costs).

In our original draft rule that we sent out surveys for, we had stated if a lab could analyze organic chemical samples and accurately report results lower than our state detection reporting levels (SDRL) that we wanted the labs to report to a quantified number to the department and not just a nondetect at the SDRL. One lab indicated they would incur a loss of annual revenue of \$80,000, due to public water system purveyors "shopping around" for a lab that would only report down to the department's SDRL. Essentially, that public water system would receive more nondetects for analytes if the lab only reported a quantified number down to the SDRL. Since then we have updated the proposed rule to require all labs to report to the SDRL only and any detection below the SDRL would be reported to the department as a nondetect. Department staff spoke with this lab after the revised survey had been sent out to labs and this lab stated that their costs would not change.

Based on the results of the survey, the department determined that the proposed rule will impose more than minor costs on lab testing businesses. The minor cost thresholds are \$10,022.18 for the one percent average annual payroll threshold and \$5,990.46 for the .03 percent average annual receipts (sales) threshold. Several businesses indicated that they would incur costs that exceed these thresholds.

A majority of lab testing businesses are classified as small businesses (fifty or less employees). Based on the results of the survey, several of the small businesses reported the highest cost estimates, greater than the three "large" labs. Using the cost per employee comparison method, the department determined that the rule will have a disproportionate impact on small businesses compared to the ten percent of businesses that are the largest businesses required to comply with the proposed rule.

The department consider[ed] each of the methods in RCW 19.85.030 that could possibly reduce the impact of the proposed rule on small businesses.

When considering alternative versions of the proposed rule, the department was aware and concerned with the potential impact of the rule to the lab industry, particularly the smaller labs. The department attempted to propose requirements that are the least "impacting" that would accomplish the intent (to ensure labs are accurately, effectively and efficiently processing (testing and reporting results)) of water quality data samples. Similarly, the department identified the minimum level of recordkeeping and reporting requirements needed for the labs to report results of samples to the water systems, other labs, if applicable, and the department. The department's concern with the potential impact of the rules resulted in the department revising the proposed rule (see alternatives considered in section 6 of the significant analysis for more details). Labs indicated that these changes ultimately lowered the impact of the proposed rule. The other prescribed methods to reduce the impact are not applicable to the proposed rule.

The department has coordinated with EPA and ecology as well as extensive work with stakeholder groups, including small businesses, during the development of this proposed rule. Throughout the rule-making process, the department has held several workshops to discuss the draft changes and get feedback from stakeholders (both labs and public water systems) at conferences and meetings at various locations across Washington. The department held four separate informal comment periods to solicit feedback from certified labs and public water systems. During the last informal comment period, the department held workshops in Yakima, Kent and Tumwater to present the draft rule, guidance and test panel templates to get feedback from drinking water labs and public water systems. The workshops were well attended and stakeholders provided valuable feedback which resulted in improvement to the proposed rule. The department also made the information available on the web and sent emails to a broad audience of interested parties.

To obtain cost estimates for the proposed rule changes, the department surveyed all certified labs (approximately one hundred twenty-five labs) that analyze drinking water samples for public water systems. For more details on the cost survey process see Section 4 of the significant analysis.

In addition to the stakeholder work, the department has held regular meetings throughout this rule-making process with ecology's lab certification program staff, EPA Region 10 staff, and the department appointed principal labs to solicit feedback on the proposed rule.

Based on the survey results, respondents did not indicate that they would have to hire (create) or fire (terminate) staff as a result of the proposed rule.

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting Theresa Phillips, Rules Project Manager, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3147, TTY 360-833-6388 or 711, email theresa.phillips@doh.wa.gov, <https://www.doh.wa.gov/CommunityandEnvironment/DrinkingWater/RegulationandCompliance/RuleMaking>.

January 23, 2018
Michelle A. Davis
Executive Director

Chapter 246-390 WAC

DRINKING WATER LABORATORY CERTIFICATION ((RULES)) AND DATA REPORTING

AMENDATORY SECTION (Amending WSR 92-15-152, filed 7/22/92, effective 8/22/92)

WAC 246-390-001 Purpose((—Objectives)). (1) The purpose of this chapter is to ((establish a state drinking water program for certification of laboratories analyzing public drinking water under RCW 43.20.050. The certification program is designed to satisfy the intent of the primacy agreement with United States Environmental Protection Agency and the state, in compliance with 40 C.F.R. 142.10, 7/1/90.

(2) The department certification program:

- (a) Requires laboratories to demonstrate capability to accurately analyze drinking water samples;
- (b) Aids laboratories in improving quality assurance;
- (c) Offers technical assistance in all drinking water analyses; and
- (d) Fosters cooperation between the state department of health, local health agencies, and operators of laboratories)) set minimum certification and data reporting requirements for environmental laboratories that analyze drinking water samples.

(2) This chapter conforms to EPA primary enforcement responsibility requirements of 40 Code of Federal Regulations (C.F.R.) 142.10 for the certification of laboratories.

(3) Certified laboratories must comply with the requirements of this chapter, chapter 173-50 WAC, and applicable state and federal drinking water laws and regulations.

AMENDATORY SECTION (Amending WSR 92-15-152, filed 7/22/92, effective 8/22/92)

WAC 246-390-010 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section ((shall)) apply throughout this chapter, unless the context clearly ((indicated)) indicates otherwise.

(1) ((**"Administrative Procedure Act"** means the adjudicative proceedings governed by chapter 34.05 RCW and chapter 246-08 WAC.

((2) "**Analytical data**" means the recorded qualitative and/or quantitative results of a chemical, physical, biological, microbiological, or radiological determination.

((3) "**Certification**" means the formal contractual agreement between the department and the certified laboratory indicating a laboratory is capable of producing accurate analytical data and is authorized to test drinking water compliance samples. The department will issue a certificate to the laboratory indicating the contaminants the laboratory is authorized to analyze. Certification does not guarantee validity of analytical data submitted by a certified laboratory.

((4) "**Certification authority**" means the designated official or a representative of the official authorized by the department as the head of the certification program.

((5) "**Certification manual**" means the most recent revision of the procedural and technical criteria of the drinking water certification rules. This document, entitled "Certification Manual for Laboratories Analyzing Washington State Drinking Water," is available from the Department of Health, Public Health Laboratory, Drinking Water Certification Program, 1610 NE 150th St., Seattle, Washington 98155-7224.

((6) "**Certification official (CO)**" means the designated official authorized by the department to certify drinking water laboratories.

((7) "**Compliance sample**" means a drinking water sample collected in accordance with WAC 246-290-300 and/or 246-290-320 and submitted to a state certified laboratory for analysis.

((8))) "**Acute**" means posing an immediate risk to human health.

((2) "**Analyte**" means the constituent or property of a sample measured using an analytical method for compliance purposes under chapters 246-290 and 246-291 WAC.

((3) "**C.F.R.**" means the Code of Federal Regulations.

((4) "**Chronic**" means human exposure over many years to a contaminant at levels above the MCL.

((5) "**Close of business**" means the latest time during a business day when a lab is no longer in routine operation for accepting or performing drinking water sample analysis.

((6) "**Confirmation**" means an additional sample is analyzed from the same location where a detection has occurred to confirm the detection. The original sample and the confirmation sample are collected and analyzed within a reasonable period of time, generally not to exceed two weeks. Confirmation occurs when the confirmation sample analysis result falls within plus or minus thirty percent of the original sample result. This confirmation analysis is in addition to any analytical method confirmation requirements.

((7) "**Contracted lab**" means a certified lab that receives a drinking water sample from another certified lab for analysis.

((8) "**Contracting lab**" means a certified lab that sends a drinking water sample to another certified lab to be analyzed.

((9) "**Department**" means the Washington state department of health.

((((9) "**EMSL CI**" means the EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio.

((10) "**EMSL LV**" means the EPA Environmental Monitoring System Laboratory, Las Vegas, Nevada.)) (10) "**Ecology**" means the Washington state department of ecology.

(11) "EPA" means United States Environmental Protection Agency.

(12) ("Interecomparison studies" means a series of cross check samples sent to radiochemistry laboratories by EPA to compare the results between participating laboratories.

(13) "Laboratory" means any facility under the ownership and technical management of a single entity in a single geographical locale. A laboratory is where scientific examinations are performed on drinking water samples.

(14) "Maximum contaminant level (MCL)") "Estimated concentration" means the level of the analyte reported to the department is above a lab's MDL, but below the lab's MRL.

(13) "GWR" means groundwater rule.

(14) "Lab" or "certified lab" means an environmental lab accredited under chapter 173-50 WAC for one or more drinking water analytes and meets the requirements of this chapter.

(15) "Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water ((the purveyor)) that a public water system delivers to ((any public water system user, measured at the location identified under WAC 246-290-300, Table 4.

(15) "Official methods" means methodologies specified by EPA drinking water regulations under 40 C.F.R. 141.21-141.30, 141.41-141.42, 7/1/90 and approved by the department.

(16) "Parameter" means a single determination or group of related determinations using a specific written official method.

(17) "Performance evaluation (PE)" means an evaluation of the results of analysis of samples from an external testing source whose true values are unknown to the laboratory conducting the analysis. The external testing service must be approved by the department and/or CO if other than EPA sources are used.

(18) "On-site audit" means an on-site inspection performed by the department to determine a laboratory's capabilities and facilities.

(19) "Quality assurance (QA)" means all those planned and systematic actions necessary to provide confidence that an analysis, measurement, or surveillance program produces data of known and defensible quality.

(20) "Quality controls (QC)" means internal written procedures and routine analyses of laboratory reference materials, samples, and blanks to insure precision and accuracy of methodology, equipment and results.

(21) "State advisory level (SAL)" means a department established value for a chemical without an existing MCL. The SAL represents a level which when exceeded, indicates the need for further assessment to determine if the chemical is an actual or potential threat to human health)) consumers. MCLs are established in chapters 246-290 and 246-291 WAC.

(16) "Minimum detectable activity (MDA)" means the smallest activity or concentration of radioactive material in a sample that will yield a net count (above sample background) that can be detected with ninety-five percent probability.

(17) "Minimum detection level (MDL)" means the minimum measured concentration of a substance that can be reported with ninety-nine percent confidence that the measured concentration is distinguishable from the method blank results.

(18) "Method reporting limit (MRL)" means the lowest concentration of a standard used for calibration.

(19) "Proficiency testing (PT)" means the evaluation of sample analysis results, the true values of which are known to the supplier of the samples, but unknown to the lab conducting the analysis. PT samples are provided by a source external to the certified lab.

(20) "Public water system" is defined and referenced under WAC 246-290-020 and 246-291-010.

(21) "Quality control (OC)" means a set of measures used during an analytical method to ensure that the process is within specified control parameters.

(22) "State detection reporting limit (SDRL)" means the minimum reportable detection of an analyte as established in Tables 1 through 4 of this chapter.

AMENDATORY SECTION (Amending WSR 92-15-152, filed 7/22/92, effective 8/22/92)

WAC 246-390-030 Certification. (((1) The department may grant certification to a laboratory after conducting a complete assessment of the laboratory's capabilities, including:

- (a) Submission of a completed application;
- (b) Submission of the proper fees;
- (c) Satisfactory performance on PE studies, and inter-comparison samples where necessary;
- (d) Submission of an updated QA plan; and
- (e) Successful completion of an on-site inspection.

(2) The department may grant less than full certification based on terms and conditions incorporated in the contractual agreement between the laboratory and the department.)) To be certified to analyze drinking water samples, a lab shall:

- (1) Be accredited under chapter 173-50 WAC; and
- (2) Comply with data reporting requirements under this chapter.

NEW SECTION

WAC 246-390-055 Reporting contracted analytical results. A contracting lab that contracts with another lab (contracted lab) shall:

- (1) Verify that the contracted lab is a certified lab;
- (2) Confirm that the contracted lab receives the sample within fourteen calendar days of the contracting lab receiving the sample;
- (3) Provide the following information to the contracted lab:
 - (a) The public water system's department assigned water system identification number;
 - (b) The name of the public water system;
 - (c) The date the sample was collected;
 - (d) The location where the sample was collected;
 - (e) The public water system's department assigned source identification number;
 - (f) The purpose for the sample;

- (g) The sample composition; and
- (h) The sample type.

(4) The contracted lab shall submit to the department a copy of the analytical results following the requirements under WAC 246-390-065 and 246-390-075;

(5) The contracted lab shall submit a copy of the analytical results to the contracting lab in the format and time frame per the contract terms.

NEW SECTION

WAC 246-390-065 Notification requirements. (1) In addition to the data reporting requirements under WAC 246-390-075, a lab shall notify the department and the public water system for:

(a) Routine, repeat, GWR, triggered source water monitoring, and assessment source water monitoring results as required under chapter 246-290 WAC that are *E. coli* bacteria present.

Notification occurs with no less than three attempts to contact the department and the public water system by telephone, facsimile, or email as soon as possible after sample results have been determined, but no later than the close of business.

(b) Routine, repeat, GWR, triggered source water monitoring, and assessment source water monitoring results that are total coliform bacteria present.

Notification occurs with one attempt to contact the department and the public water system by telephone (voice mail is acceptable), facsimile, or email as soon as possible after sample results have been determined, but no later than the close of business on the next business day. For labs that operate seven days per week or observe regular holidays, weekends and holidays are not considered "business days" for the purposes of this subsection.

(c) Routine or confirmation sample results for nitrate or nitrite that exceed the MCL under chapters 246-290 and 246-291 WAC; or

(d) Routine or confirmation sample results for inorganic, organic, or radiological contaminants that exceed four times the contaminant's primary MCL under chapters 246-290 and 246-291 WAC.

Notification occurs with one attempt to contact the department and public water system by telephone, facsimile, or email as soon as possible after sample results have been verified by quality control staff, but no later than the close of business.

(2) A lab shall:

(a) Document all notification attempts required under subsection (1) of this section by recording the following information in a paper or electronic logbook:

- (i) Date;
- (ii) Time;
- (iii) Sample number;

(iv) Public water system name and department-assigned identification number;

(v) The contact person and telephone number, facsimile number, or email address for the public water system;

(vi) The contact person and telephone number, facsimile number, or email address of the department; and

(vii) The initials of the lab person that made the attempt.

(b) Make the logbook available to the department upon request; and

(c) Retain the logbook for a minimum of two years after the last entry date.

NEW SECTION

WAC 246-390-075 Reporting. (1) A lab shall report analytical results to the department and the public water system.

(2) Within one hundred eighty days of the effective date of this chapter, a lab submitting paper reports shall complete and submit to the department data reports following the procedures and templates in the department's *Laboratory Reporting Guidance*, Publication DOH 331-530, March 2018.

(3) On the effective date of this chapter, a lab submitting electronic reports shall complete and submit to the department data reports following the procedures in the department's *Electronic Reporting Guidance*, Publication 331-289, March 2018.

(4) Labs shall submit reports to the public water system in the format and time frame that was agreed upon when executing the service agreement between the laboratory and the public water system.

(5) Labs shall submit reports of acute contaminant results within seven business days after receiving the sample.

(6) Labs shall submit reports of chronic contaminants within forty-five business days after receiving the sample.

(7) Analytical results must be complete, legible, and accurate.

(8) A lab shall report numerical results consistent with the accuracy of the EPA-approved methods and any associated lab instruments, glassware, or tools.

(9) A lab shall report numerical results out to, but not exceed, one decimal place past the SDRL in cases where the last definitely known digit exceeds one decimal place past the SDRL as follows:

(a) If the SDRL is 1.1 and the result, out to the last definitely known digit is 1.132, then the value reported to the department is 1.13;

(b) If the digit 6, 7, 8, or 9 is dropped, increase the preceding digit by one unit;

(c) If the digit 0, 1, 2, 3, or 4 is dropped, do not alter the preceding digit; or

(d) If the digit 5 is dropped, round off the preceding digit to the nearest even number. For example, 2.25 becomes 2.2, and 2.35 becomes 2.4.

(10) A lab shall include the following data qualifiers adjacent to the results that are affected:

(a) "B" - This data qualifier is used when the target analyte is detected in the method blank above the lab's established MRL or SDRL, whichever is lower;

(b) "J" - This data qualifier is used when the result is an estimated concentration per subsections (13) and (14) of this section;

(c) "NDDS" - This data qualifier is used when the analyte is not detected in duplicate sample; or

(d) "U" - This data qualifier is used when the radiochemistry analyte is not detected at or above the lab's established MDA.

(11) A lab shall notate on the report to the public water system and the department when any analysis is completed using a provisional accreditation.

(12) At the department's request, a lab shall submit the following information:

(a) The method specific QC for any given analytical report.

(b) The most recent MDL procedures performed for any given analyte.

(c) The most recent PT study performed for any given analyte.

(13) The SDRLs for organic chemical analytes are established in Table 1 of this section.

(a) Labs shall attach to the lab report, a copy of the method specific QC results for any organic chemical detection that is reported to the department which is at or above the SDRLs listed in Table 1 of this section except for:

- (i) Chloroform (0027);
- (ii) Bromodichloromethane (0028);
- (iii) Dibromochloromethane (0029);
- (iv) Bromoform (0030);
- (v) Monochloroacetic Acid (0411);
- (vi) Dichloroacetic Acid (0412);
- (vii) Trichloroacetic Acid (0413);

(viii) Monobromoacetic Acid (0414);
 (ix) Monobromoacetic Acid (0415); and
 (x) Total Organic Carbon (0421).

(b) A lab shall report organic chemical analyte results when the lab's established MRL is greater than the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL;

(ii) An estimated concentration, notated with a "J" data qualifier when a result is equal to or greater than the SDRL, but less than the lab's established MRL;

(iii) A number when a result is equal to or greater than the lab's established MRL.

(c) A lab shall report organic chemical analyte results when the lab's established MRL is less than the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the lab's established MRL;

(ii) "Nondetect" or "ND" when a lab's result is less than the lab's established SDRL; or

(iii) A number when a result is equal to or greater than the SDRL.

(d) A lab shall report organic chemical analyte results when their established MRL is equal to the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL; or

(ii) A number when a result is equal to or greater than the SDRL and the lab's established MRL.

Table 1 - Organic Chemicals

Analyte Name	Analyte Number	Units	SDRL
1,1 Dichloroethane	0058	µg/L	0.5
1,1 Dichloroethylene	0046	µg/L	0.5
1,1 Dichloropropene	0062	µg/L	0.5
1,1,1 Trichloroethane	0047	µg/L	0.5
1,1,1,2 Tetrachloroethane	0072	µg/L	0.5
1,1,2 Trichloroethane	0067	µg/L	0.5
1,1,2,2 Tetrachloroethane	0080	µg/L	0.5
1,2 Dichlorobenzene	0084	µg/L	0.5
1,2 Dichloroethane	0050	µg/L	0.5
1,2 Dichloropropane	0063	µg/L	0.5
1,2,3 Trichlorobenzene	0098	µg/L	0.5
1,2,3 Trichloropropane	0079	µg/L	0.5
1,2,4 Trichlorobenzene	0095	µg/L	0.5
1,2,4 Trimethylbenzene	0091	µg/L	0.5
1,3 Dichloropropane	0070	µg/L	0.5
1,3 Dichloropropene	0154	µg/L	0.5
1,3,5 Trimethylbenzene	0089	µg/L	0.5
1,4 Dichlorobenzene	0052	µg/L	0.5
2,2 Dichloropropane	0059	µg/L	0.5
2,3,7,8 TCDD (dioxin)	0149	ng/L	0.005

Analyte Name	Analyte Number	Units	SDRL
2,4 D	0037	µg/L	0.1
2,4 DB	0135	µg/L	1
2,4,5 T	0136	µg/L	0.4
2,4,5 TP (Silvex)	0038	µg/L	0.2
3,5 Dichlorbenzoic Acid	0226	µg/L	0.5
4,4 DDD	0232	µg/L	0.1
4,4 DDE	0233	µg/L	0.1
4,4 DDT	0234	µg/L	0.1
Acenaphthylene	0244	µg/L	0.2
Acifluorfen	0223	µg/L	2
Alachlor	0117	µg/L	0.2
Aldicarb	0142	µg/L	0.5
Aldicarb Sulfone	0143	µg/L	0.8
Aldicarb Sulfoxide	0144	µg/L	0.5
Aldrin	0118	µg/L	0.1
Anthracene	0246	µg/L	0.2
Arochlor 1016	0180	µg/L	0.08
Arochlor 1221	0173	µg/L	20
Arochlor 1232	0174	µg/L	0.5
Arochlor 1242	0175	µg/L	0.3
Arochlor 1248	0176	µg/L	0.1
Arochlor 1254	0177	µg/L	0.1
Arochlor 1260	0178	µg/L	0.2
Atrazine	0119	µg/L	0.1
Bentazon	0220	µg/L	0.5
Benzene	0049	µg/L	0.5
Benzo (a) anthracene	0247	µg/L	0.2
Benzo (a) Pyrene	0120	µg/L	0.02
Benzo (b) fluoroanthene	0248	µg/L	0.2
Benzo (k) fluoranthene	0250	µg/L	0.2
Benzyl Butyl Phthalate	0258	µg/L	1.0
Bromacil	0179	µg/L	0.1
Bromobenzene	0078	µg/L	0.5
Bromochloromethane	0086	µg/L	0.5
Bromodichloromethane	0028	µg/L	0.5
Bromoform	0030	µg/L	0.5
Bromomethane	0054	µg/L	0.5
Butachlor	0121	µg/L	0.1
Carbaryl	0145	µg/L	2
Carbofuran	0146	µg/L	0.9
Carbon Tetrachloride	0048	µg/L	0.5
Chlordane (total)	0122	µg/L	0.2

Analyte Name	Analyte Number	Units	SDRL
Chlorobenzene	0071	µg/L	0.5
Chloroethane	0055	µg/L	0.5
Chloroform	0027	µg/L	0.5
Chloromethane	0053	µg/L	0.5
Chrysene	0251	µg/L	0.2
Cis- 1,2 Dichloroethylene	0060	µg/L	0.5
Cis- 1,3 Dichloropropene	0065	µg/L	0.5
Dalapon	0137	µg/L	1
DBCP	0103	µg/L	0.02
DBCP (screening)	0428	µg/L	0.5
DCPA Acid Metabolites	0225	µg/L	0.1
Di (2-Ethylhexyl) Adipate	0124	µg/L	0.6
Di (2-Ethylhexyl) Phthalate	0125	µg/L	0.6
Dibromoacetic Acid	0415	µg/L	1
Dibromochloromethane	0029	µg/L	0.5
Dibromomethane	0064	µg/L	0.5
Dicamba	0138	µg/L	0.2
Dichloroacetic Acid	0412	µg/L	1
Dichlorodifluoromethane	0104	µg/L	0.5
Dichlorprop	0221	µg/L	0.5
Dieldrin	0123	µg/L	0.1
Diethyl Phthalate	0260	µg/L	1.0
Dimethyl Phthalate	0261	µg/L	1.0
Di-n-butyl Phthalate	0259	µg/L	1.0
Dinoseb	0139	µg/L	0.2
Diquat	0150	µg/L	0.4
EDB	0102	µg/L	0.01
EDB (screening)	0427	µg/L	0.5
Endothal	0151	µg/L	9
Endrin	0033	µg/L	0.01
EPTC	0208	µg/L	0.1
Ethylbenzene	0073	µg/L	0.5
Fluoranthene	0253	µg/L	0.2
Fluorene	0254	µg/L	0.2
Glyphosate	0152	µg/L	6
HAA(5)	0416	µg/L	*
Heptachlor	0126	µg/L	0.04
Heptachlor Epoxide	0127	µg/L	0.02
Hexachlorobenzene	0128	µg/L	0.1
Hexachlorobutadiene	0097	µg/L	0.5
Hexachlorocyclo Pentadiene	0129	µg/L	0.1
Isopropylbenzene	0087	µg/L	0.5

Analyte Name	Analyte Number	Units	SDRL
Lindane (bhc - gamma)	0034	µg/L	0.02
M- dichlorobenzene	0083	µg/L	0.5
M/P Xylenes (MCL for total)	0074	µg/L	0.5
Methomyl	0147	µg/L	4
Methoxychlor	0035	µg/L	0.1
Methylene Chloride (Dichloromethane)	0056	µg/L	0.5
Metolachlor	0130	µg/L	0.1
Metribuzin	0131	µg/L	0.1
Molinate	0218	µg/L	0.1
Monobromoacetic Acid	0414	µg/L	1
Monochloroacetic Acid	0411	µg/L	2
Naphthalene	0096	µg/L	0.5
N-Butylbenzene	0094	µg/L	0.5
N-Propylbenzene	0088	µg/L	0.5
O- Chlorotoluene	0081	µg/L	0.5
O- Xylene (MCL for total)	0075	µg/L	0.5
Oxamyl	0148	µg/L	2
P- Chlorotoluene	0082	µg/L	0.5
Paraquat	0400	µg/L	0.8
PCB (as Decachlorobiphenyl)	0401	µg/L	0.1
Pentachlorophenol	0134	µg/L	0.04
Phanthrene	0256	µg/L	0.2
Picloram	0140	µg/L	0.1
P-Isopropyltoluene	0093	µg/L	0.5
Propachlor	0132	µg/L	0.1
Pyrene	0257	µg/L	0.2
Sec- Butylbenzene	0092	µg/L	0.5
Simazine	0133	µg/L	0.07
Styrene	0076	µg/L	0.5
Terbacil	0190	µg/L	0.1
Tert- Butylbenzene	0090	µg/L	0.5
Tetrachloroethylene	0068	µg/L	0.5
Toluene	0066	µg/L	0.5
Total organic carbon	0421	mg/L	0.7
Total Trihalomethane	0031	µg/L	*
Total Xylenes	0160	µg/L	0.5
Toxaphene	0036	µg/L	1
Trans- 1,2 Dichloroethylene	0057	µg/L	0.5
Trans- 1,3 Dichloropropene	0069	µg/L	0.5
Trichloroacetic Acid	0413	µg/L	1
Trichloroethylene	0051	µg/L	0.5
Trichlorofluoromethane	0085	µg/L	0.5

Analyte Name	Analyte Number	Units	SDRL
Trifluralin	0243	µg/L	0.1
Vinyl Chloride	0045	µg/L	0.5

Key

mg/L = parts per million, or milligrams per liter

ng/L = nanograms per liter

µg/L = parts per billion, or micrograms per liter

* = results are calculated values based on other analytical results

(14) The SDRLs for inorganic chemical analytes are established in Table 2 of this section.

(a) A lab shall report inorganic chemical analyte results when the lab's established MRL is greater than the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL;

(ii) An estimated concentration, notated with a "J" data qualifier, when a result is equal to or greater than the SDRL, but less than the lab's established MRL; or

(iii) A number when a result is equal to or greater than the lab's established MRL.

(b) A lab shall report inorganic chemical analyte results when the lab's established MRL is less than the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the lab's established MRL;

(ii) "Nondetect" or "ND" when a lab's result is less than the lab's established SDRL; or

(iii) A number when a result is equal to or greater than the SDRL.

(c) A lab shall report inorganic chemical analyte results when the lab's established MRL is equal to the SDRL as:

(i) "Nondetect" or "ND" when a lab's result is less than the SDRL and MRL; or

(ii) A number when a result is equal to or greater than the SDRL and the lab's established MRL.

Table 2 - Inorganic Chemicals

Analyte Name	Analyte Number	Units	SDRL
Alkalinity-Lab	0403	mg/L	5
Antimony	0112	mg/L	0.003
Arsenic	0004	mg/L	0.001
Asbestos	0115	MFL	0.20
Barium	0005	mg/L	0.1
Beryllium	0110	mg/L	0.0003
Bromate	0419	mg/L	0.005/0.001*
Cadmium	0006	mg/L	0.001
Chloride	0021	mg/L	20
Chlorite	0418	mg/L	0.02
Chromium	0007	mg/L	0.007
Color	0018	CU	15
Conductivity	0016	µmhos/cm	70
Copper	0023	mg/L	0.02
Cyanide	0116	mg/L	0.05
Fluoride	0019	mg/L	0.2
Hardness	0015	mg/L	10
Iron	0008	mg/L	0.1
Lead	0009	mg/L	0.001
Manganese	0010	mg/L	0.01
Mercury	0011	mg/L	0.0002
Nickel	0111	mg/L	0.005
Nitrate-n	0020	mg/L	0.5
Nitrite-n	0114	mg/L	0.1

Analyte Name	Analyte Number	Units	SDRL
Selenium	0012	mg/L	0.002
Silver	0013	mg/L	0.1
Sodium	0014	mg/L	5
Sulfate	0022	mg/L	50
TDS-total dissolved solids	0026	mg/L	100
Thallium	0113	mg/L	0.001
Total nitrate/nitrite	0161	mg/L	0.5
Turbidity	0017	NTU	0.1
Zinc	0024	mg/L	0.2

Key

CU = color units

MFL = million fibers per liter

mg/L = parts per million, or milligrams per liter

NTU = nephelometric turbidity units

μmhos/cm = micromhos per centimeter

* = labs that use EPA Methods 317.0, 326.0 or 321.8 must meet a 0.0010 mg/L SDRL for bromate

(15) The SDRLs for radiochemistry analytes are established in Table 3 of this section.

(a) A lab's MDA must meet the established SDRL levels for the analysis to be considered for compliance purposes.

(b) A lab shall report radiochemistry analyte results as:

- (i) A number and a "U" qualifier if the analyte was analyzed for, but not detected at or above the lab's established MDA; or
- (ii) A number when a result is equal to or greater than the MDA.

Table 3 - Radiochemistry

Analyte Name	Analyte Number	Units	SDRL
Cesium 134	0107	pCi/L	10.0
Gross Alpha	0165	pCi/L	3.0
Gross Alpha (Minus Uranium)	0041	pCi/L	*
Gross Beta	0042	pCi/L	4.0
Iodine 131	0108	pCi/L	1.0
Radium 226	0039	pCi/L	1.0
Radium 226 + 228	0040	pCi/L	*
Radium 228	0166	pCi/L	1.0
Radon	0109	pCi/L	*
Strontium 90	0044	pCi/L	2.0
Tritium	0043	pCi/L	1000
Uranium	0105	μg/L	1.0

Key

pCi/L = picocuries per liter

μg/L = parts per billion, or micrograms per liter

* = results are calculated values based on other analytical results

(16) The units for microbiology analytes are established in Table 4 of this section.

(a) Total coliform and *E. coli* results for routine and repeat samples in accordance with 40 C.F.R. 141 Subpart Y - Revised Total Coliform Rule, GWR triggered, and GWR assessment source sample results that are absent or present as follows:

(i) "Satisfactory" if no total coliforms are detected.

(ii) "Unsatisfactory" if:

(A) Total coliforms are detected; and

(B) *E. coli* absent if *E. coli* is not detected; or(C) *E. coli* present if *E. coli* is detected.

(b) A lab shall report routine filtered and unfiltered surface water microbiology analyte results as a number.

(c) A lab shall report routine heterotrophic plate count results as a number.

(d) A lab shall report results of investigative samples or samples collected for information only to the public water system for total coliforms, fecal coliforms, and *E. coli* as a number or, as absent or present. Investigative samples or samples collected for information only are not required to be reported to the department.

Table 4 - Microbiology

Analyte Name	Analyte Number	Units
Total Coliform (numerical)	0001	CFU/100mL
Total Coliform (numerical)	0001	MPN/100mL
Total Coliform (absence/presence)	0001	N/A
Fecal Coliform (numerical)	0002	CFU/100mL
Fecal Coliform (numerical)	0002	MPN/100mL
Fecal Coliform (absence/presence)	0002	N/A
<i>E. coli</i> (numerical)	0003	CFU/100mL
<i>E. coli</i> (numerical)	0003	MPN/100mL
<i>E. coli</i> (absence/presence)	0003	N/A
Heterotrophic Plate Count (numerical)	0101	CFU/1mL

Key

CFU/100mL = colony forming units per 100 milliliters of sample

CFU/1mL = colony forming units per 1 milliliter of sample

MPN/100mL = most probable number per 100 milliliters of sample

NEW SECTION

WAC 246-390-085 Enforcement. (1) When a lab fails to comply with the requirements of this chapter, the department may initiate one or more of the following enforcement actions:

(a) An informal letter directing appropriate corrective measures;

(b) A notice of violation requiring appropriate corrective measures;

(c) A compliance schedule of specific actions needed to achieve compliance;

(d) A notice of correction with specific actions needed within a designated time period to achieve compliance.

(2) If a lab fails to comply with a notice of correction as specified in subsection (1)(d) of this section, the department may revoke or suspend a lab's drinking water certification in accordance with WAC 246-390-095.

NEW SECTION

WAC 246-390-095 Revocation and suspension. (1)

The department may suspend a lab's certification for up to one year or revoke a lab's certification for up to five years if a lab fails to comply with a notice of correction as specified in WAC 246-390-085.

(2) A lab whose certification is suspended or revoked may, after the period of suspension or revocation has ended, apply for certification in conformance with the requirements at the time of application.

(3) If ecology suspends or revokes a lab's accreditation for drinking water analytes as authorized under chapter 173-50 WAC, the department shall immediately suspend or

revoke a lab's certification to analyze drinking water samples. The lab must immediately notify the department and public water systems of any samples that are invalidated as a result of the revocation or suspension.

AMENDATORY SECTION (Amending WSR 92-15-152, filed 7/22/92, effective 8/22/92)

WAC 246-390-100 Appeals. ((A laboratory manager may appeal any certification action such as denial and revocation in writing to the CO. If the question is not satisfactorily resolved, the laboratory manager may appeal in writing by certified mail to the certification authority within thirty days of the decision of the CO. Decisions of the certification authority may be appealed to the secretary of the department within thirty days of notification of final action. The adjudication procedure is governed by the Administrative Procedure Act, this chapter, and chapter 246-08 WAC. Laboratories may be allowed to maintain certification during the appeal process.)) (1) A certified lab may appeal a revocation or suspension action taken by the department in accordance with chapters 246-10 WAC, 34.05 RCW, and RCW 43.70.115.

(2) To appeal a notice of revocation or suspension action, the certified lab must file a written appeal with the department within twenty-eight days of service. The written appeal must contain the specific grounds for an appeal.

(3) A certified lab that requests a hearing may continue to operate until the department issues a final order unless the department takes a summary action due to a high public health risk.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 246-390-020 Requirement for certification.
- WAC 246-390-040 Provisional certification.
- WAC 246-390-050 Revoking or denying certification.
- WAC 246-390-060 Reciprocity.
- WAC 246-390-070 Third-party certification.
- WAC 246-390-990 Fees.

email wildthing@dfw.wa.gov, fax 360-902-2162, <https://wdfw.wa.gov/hunting/regulations/seasonsetting/2018-2020/>, by February 14, 2018.

Assistance for Persons with Disabilities: Contact Tami Lininger, phone 360-902-2267, TTY 800-833-6388, email tami.lininger@dfw.wa.gov, by March 7, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 220-400-050, the purpose of the proposal is to simplify the sealing requirements for bobcat and cougar pelts by aligning the date for sealing bobcat with the last date of trapper reporting and by requiring cougar pelt sealing to occur within seventy-two hours of harvest. The proposed changes align the dates for pelt sealing each species, regardless of method or reporting of harvest.

WAC 220-410-040, the purpose of the proposal is to clarify boundary language as it pertains to GMU 485 Green River. The existing language can be somewhat complicated. The proposed changes take advantage of the well-marked boundaries of the watershed which are identical to the GMU boundary.

WAC 220-410-050, the purpose of the proposal is to clarify boundary language as it pertains to GMUs 522 Loo Wit and 560 Lewis River. The proposed changes clarify directional movements on established roads that make up the boundaries.

WAC 220-412-070, this proposal replaces GMU 172 with GMU 169 for the Rocky Mountain bighorn sheep raffle permit holder.

WAC 220-412-080, this proposal revises wording in the "once in a lifetime" part of special hunting permits for moose, to reflect the proposed change in hunt categories from "any moose" to "antlered bull moose." Any "point" accumulated under the "any moose" category will be transferred to the "antlered bull moose" category.

Additionally, applicants for special hunting season permits will be required to either complete hunter education prior to submitting a permit application, or be exempt from the hunter education requirement.

WAC 220-412-100, this proposal modifies hunt dates on properties enrolled in the Washington department of fish and wildlife's (WDFW) landowner hunting permit (LHP) program for the 2018 hunting seasons. These sites offer special hunting opportunities to the public through permits issued by WDFW, raffles, or selection by the landowner.

WAC 220-413-030, the proposal will ban the importation and retention of specific parts of dead nonresident wildlife that could contain chronic wasting disease (CWD) from Montana. Specific circumstances are fully set forth in WAC 220-413-030 to include the state of Montana.

WAC 220-413-070, the purpose of this proposal is to add unmanned aircraft to the rule that restricts the use of aircraft, boats, or other types of vehicles to hunt, spot, or harass wildlife.

WAC 220-413-100, the proposal will change the reporting deadline for brant, sea duck, and snow goose to March 20 following the season for which the harvest card was issued, and adds a harvest report card requirement for the SW Canada Goose special species authorization.

WSR 18-03-177**PROPOSED RULES****DEPARTMENT OF
FISH AND WILDLIFE**

[Filed January 24, 2018, 8:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-24-106 on December 6, 2017.

Title of Rule and Other Identifying Information: WAC 220-400-050 Requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx, and bobcat, 220-410-040 Game management units (GMUs) boundary descriptions—Region four, 220-410-050 Game management units (GMUs) boundary descriptions—Region five, 220-412-070 Big game and wild turkey auction, raffle, and special incentive permits, 220-412-080 Special hunting season permits, 220-412-100 Landowner hunting permits, 220-413-030 Importation and retention of dead nonresident wildlife, 220-413-070 Hunting with aid of aircraft, boats or other vehicles, 220-413-100 Mandatory report of hunting activity, 220-413-180 Special closures and firearm restriction areas, 220-414-060 Muzzleloading firearms, 220-414-080 Hunting—Hunter orange clothing requirements, 220-415-010 Deer area descriptions, 220-415-020 2015-2017 Deer general seasons and definitions, 220-415-030 2017 Deer special permits, 220-415-040 Elk area descriptions, 220-415-050 2015-2017 Elk general seasons and definitions, 220-415-060 2017 Elk special permits, 220-415-070 2017 Moose seasons, permit quotas, and areas, 220-415-080 2018 Spring black bear seasons and regulations, 220-415-090 2015-2017 Fall black bear hunting seasons and regulations, 220-415-100 2016-2017 and 2017-2018 Cougar hunting seasons and regulations, 220-415-120 2017 Bighorn sheep seasons and permit quotas, 220-415-130 2015-2017 Mountain goat seasons and permit quotas, 220-416-010 2015-16, 2016-17, 2017-18 Small game and other wildlife seasons and regulations, 220-416-060 2017-2018 Migratory waterfowl seasons and regulations, and 220-440-030 Public safety cougar removals.

Hearing Location(s): On March 15-17, 2018, at 8:00 a.m., at the Red Lion Hotel, 1225 North Wenatchee Avenue, Wenatchee, WA 98801.

Date of Intended Adoption: April 12-14, 2018.

Submit Written Comments to: Wildlife Program Rules Coordinator, P.O. Box 43141, Olympia, WA 98504-3200,

WAC 220-413-180, the purpose of the proposal is to modify restrictions in the special closures and firearm restriction rule by:

Adding mountain goat as an exception to the hunting restriction in GMU 522.

Clarifying and adding exceptions to the firearm restriction that exists in a portion of GMU 652.

Removing a firearm restriction area in Kitsap County that is no longer needed.

WAC 220-414-060, the purpose of the proposal is to eliminate the restriction that disallows the use of primers, designed for modern cartridges in the firearms ignition system, during muzzleloader hunting seasons. Such a rule change will allow more technologically advanced muzzleloaders to be used during muzzleloader seasons.

WAC 220-414-080, this proposal adds turkey to the hunter orange rule and requires turkey hunters that are hunting during a modern deer or elk firearm season to wear fluorescent orange.

WAC 220-415-010, the purpose of the proposal is to eliminate the three deer areas surrounding Spokane and the Colfax Deer Area that are either ineffective or no longer needed and add the North Issaquah Deer Area in King and Snohomish counties to help mitigate deer conflict issues. Deer areas allow the department to focus deer hunting pressure on a smaller scale than the GMU. Deer areas help expand hunting opportunity that would normally not be available. Deer areas also help accommodate wildlife conflict mitigation using hunting as a tool.

WAC 220-415-020, the purpose of this proposal is to retain general season deer hunting opportunity for 2018-2020. In addition, the purpose of the proposal is to balance the hunting opportunity between user groups. The proposal also increases the opportunity when deer populations allow, and reduces the opportunity when declining deer numbers warrant a change.

WAC 220-415-030, the purpose of this proposal is to retain special permit deer hunting opportunity for 2018. In addition, the purpose of the proposal is to balance the hunting opportunity between user groups. The proposal also increases the opportunity when deer populations allow, and reduces the opportunity when declining deer numbers warrant a change.

WAC 220-415-040, the purpose of the proposal is to add new elk areas or adjust the boundaries of existing elk areas. Elk areas allow the department to focus elk hunting pressure on a smaller scale than the GMU. Elk areas help expand hunting opportunity that would normally not be available. Elk areas also help accommodate wildlife conflict mitigation using hunting as a tool.

WAC 220-415-050, the purpose of this proposal is to retain general season elk hunting opportunity for 2018-2020. In addition, the purpose of the proposal is to balance the hunting opportunity between user groups. The proposal also increases the opportunity when elk populations allow, and reduces the opportunity when declining elk numbers warrant a change.

WAC 220-415-060, the purpose of this proposal is to retain elk special permit hunting opportunity for 2018. The purpose is also to balance the elk hunting opportunity between user groups. The proposal also increases elk hunting

opportunity when elk populations allow, and reduces elk hunting opportunity when declining elk numbers warrant a change.

WAC 220-415-070, the purpose of this proposal is to remove hunt category "any moose," replacing it with "any antlered bull moose;" require successful moose hunters to submit an incisor tooth by mail to WDFW for ageing; add "or archery" to the list of permitted weaponry for moose hunting in the Parker Lake special hunt area; and changes in permit levels.

WAC 220-415-080, the purpose of the proposed amendments is to align the rules with the appropriate season dates; require a bear identification test for hunters that will hunt within grizzly bear recovery areas as identified by the department; expand the biological samples that may be collected by the department; and include results for failure to report or comply with the conditions of the rule.

WAC 220-415-090, the purpose of the proposed amendments is to align the rules with the appropriate season dates; remove GMUs that do not have resident bear populations; require a bear identification test for hunters that will hunt within grizzly bear recovery areas as identified by the department; expand the biological samples that may be collected by the department; and include results for failure to report or comply with the conditions of the rule.

WAC 220-415-100, the purpose of the proposed amendments is to align the rules with the appropriate season dates; align the cougar season with the license year and thereby minimize potential confusion by hunters; and align the late cougar season start date with the closing date of the general deer and elk seasons for modern firearm and muzzleloader with the exception of a few master hunter antlerless elk seasons that continue into January.

WAC 220-415-120, the purpose of the proposal is to initiate modest ewe (bighorn sheep female) harvests in two separate areas of the Lincoln Cliffs bighorn sheep populations. Additionally, increase harvest of both rams and ewes in the Chelan Butte population.

WAC 220-415-130, the purpose of the proposal is to require holders of mountain goat hunting permits to pass an online test of their ability to distinguish mountain goats by gender (i.e., billy vs. nanny) before they would be allowed to purchase their mountain goat hunting license; establish new mountain goat hunting seasons in Mt. Margaret back-country, and Mt. St. Helens South (one permit in each area); and split the existing Goat Rocks mountain goat hunt area into two contiguous areas.

WAC 220-416-010, the purpose of the proposal is to make date adjustments related to calendar changes; extend the fall turkey season in GMUs 101-154 and 162-186; remove the draw permits from Klickitat County and opens GMUs within that county to general season hunting; and prohibit night hunting in GMUs that fall within the lynx management zones as identified by the department.

WAC 220-416-060, the purpose of the proposal is to specify legal season dates and bag limits for the 2018-2019 season.

WAC 220-440-030, this proposal changes the current public safety cougar removal from a hunting opportunity authorizing the use of hounds, when certain conditions are

met, to a permit program to provide training opportunities for owners of "working dogs" who are often summoned by WDFW law enforcement to assist in resolving wildlife conflict issues. If approved, this new program will allow working dogs and their owners the nonlethal pursuit of cougars under the conditions of a training permit.

Reasons Supporting Proposal: WAC 220-400-050, the proposed amendments will make the sealing requirements consistent for each species and thereby easily understood by user groups. The proposed changes will also make managing cougar hunt unit closures more efficient and timely.

WAC 220-410-040, the proposed amendments will make the boundaries more discernable for hunters. The proposed changes will also make enforcement of hunting season rules and trespass rules more straightforward.

WAC 220-410-050, the proposed amendments will make the boundaries more discernable for hunters. The proposed changes will also make enforcement of hunting season rules more straightforward.

WAC 220-412-070, the proposed amendments will redirect hunters from a small herd that has few mature rams to a herd that can more easily support removal of a large-sized ram.

WAC 220-412-080, the proposed amendments will maintain consistency with proposed changes in WAC 220-415-070 and requirements elsewhere in WAC that applicants for special permits possess the necessary qualifications to hunt under that permit should they be drawn.

WAC 220-412-100, several years ago, the fish and wildlife commission developed a policy to expand the private lands available to the general public for hunting. One of the programs that was authorized is the LHP program. This program encourages landowners to provide opportunity to the general hunter in exchange for customized hunting seasons and the ability to generate funding to offset the cost of providing public access.

WAC 220-413-030, because Montana has identified chronic wasting disease in wild free ranging deer, the department seeks to mitigate the risk to public health and safety by adding the state of Montana to WAC 220-413-030.

WAC 220-413-070, small unmanned aircraft have become a part of modern culture. Unmanned aircraft use is pervasive. In the same spirit of hunting ethics that inspired the fish and wildlife commission to promulgate a rule that restricts the use of vehicles, aircraft, or boats to hunt or harass wildlife, the department feels that unmanned aircraft should be specifically called out and added to this rule.

WAC 220-413-100, two proposed amendments of WAC 220-416-060 require changing the February 15 deadline date. The proposal to move twelve days of the snow goose hunting season in Goose Management Area 1 (Skagit and Snohomish counties) would have the goose season ending at the end of February (February 27, 2019). Additionally, the requirement of a mandatory harvest report for goose hunting in Goose Management Area 2-Coast and Inland (Clark, Cowlitz, Grays Harbor, Pacific, and Wahkiakum counties) has to accommodate goose hunting seasons that can extend to March 10 in some years. To minimize confusion, all waterfowl-related reporting deadlines would be changed to March 20.

WAC 220-413-180, reasons for supporting the rule include expanding mountain goat hunting opportunity; accommodating both firearm restriction needs and wildlife conflict mitigation; and adding flexibility to hunting seasons when restrictions are no longer necessary.

WAC 220-414-060, the fish and wildlife commission requested that the department reach out to the hunting public and get their opinion on the use of modern cartridge primers on muzzleloading firearms during muzzleloader season. Deer and elk hunters were polled, and the majority of the respondents were in favor of allowing the more modern primers.

WAC 220-414-080, this proposal is meant to increase safety. Turkey seasons in the past did not overlap with modern deer or elk firearm seasons. New proposals to control growing turkey populations make it necessary to overlap those seasons. This recommended rule adjustment provides consistency. All other species hunters are already required to wear hunter orange during modern deer or elk firearm season. This proposal adds turkey hunters to that list.

WAC 220-415-010, the proposed amendments will allow the department to use hunting as a management tool and expands deer hunting opportunity.

WAC 220-415-020, this proposal provides for recreational deer hunting opportunity and protects deer from over-harvest. The proposal would maintain sustainable general deer hunting season opportunities for 2018-2020. In addition, the proposal allows for the use of hunting as a management tool, helps address deer agricultural damage problems, and provides for deer population control when needed.

WAC 220-415-030, this proposal provides for recreational deer hunting opportunity and protects deer from over-harvest. The proposal would also maintain sustainable deer special permit hunting season opportunities for 2018. The proposal helps address deer agricultural damage problems and provides for deer population control when needed.

WAC 220-415-040, the proposed amendments allow the department to use hunting as a management tool and expands elk hunting opportunity.

WAC 220-415-050, the proposal provides for recreational elk hunting opportunity and protects elk from over-harvest. The proposal would maintain sustainable general elk hunting season opportunities for 2018-2020. The proposal helps address elk agricultural damage problems and provides for elk population control when needed.

WAC 220-415-060, this proposal provides for recreational elk hunting opportunity and protects elk from over-harvest. The proposal would maintain sustainable elk special permit hunting opportunity for 2018. The proposal helps address elk agricultural damage problems and provides for elk population control when needed.

WAC 220-415-070, we expect the moose population in northeastern Washington to stabilize or decline over the next few years. Being able to predict whether males (bulls) or females (cows) will be taken in any given hunt is important to managers. Almost all holders of "any moose" permits attempt to take bulls. Accumulated points held in the "any moose" category would be transferred to the new "any antlered bull moose" category; the definition of "antlered bull moose" would require the presence of "visible antlers." Public support for this proposal was high.

Models currently under development by WDFW to understand moose population trajectory require knowing the age of harvested moose. WDFW currently requests successful hunters to extract a tooth and send it to WDFW in a supplied envelope. However, compliance with the currently voluntary request is variable, and response is likely biased. Incorporating this request in rule should increase compliance, increasing the accuracy and precision of our monitoring models.

In response to a hunter's question from 2017, we realized that, unlike other "muzzleloader hunts" offered for other species, we had not indicated that "archery," considered a lesser-capable weapon, could also be used in the muzzleloader season. WDFW received approval from the United States Air Force on this change.

Recent work has strongly suggested that moose have begun declining in abundance in most areas. We also received considerable support from the public for reducing "Youth only" hunts. Most of these specific changes reduce "antlerless moose" permits, particularly in WDFW District 2, where harvest rates have been relatively high. In response to suggestions from enforcement, we would eliminate the master hunter moose permits, which have only been used a handful of times in the past decade, due to the difficulty of finding an appropriate situation. This would reduce expectation among master hunters for an opportunity, which, in reality, has rarely been realized.

WAC 220-415-080, the proposed amendments will announce the appropriate season dates, assist in lessening the likelihood of incidental take of grizzly bear, bring awareness to hunters, create stewardship of resources managed by other government agencies, and provide the department with the ability to collect biological samples which further assist managing bear populations.

WAC 220-415-090, the proposed amendments will announce the appropriate season dates, assist hunters by providing opportunities where they exist, assist in lessening the likelihood of incidental take of grizzly bear, bring awareness to hunters, create stewardship of resources managed by other government agencies, and provide the department with the ability to collect biological samples which further assist managing bear populations.

WAC 220-415-100, the proposed amendments will announce the appropriate season dates; assist in minimizing disturbance to ungulates that are already stressed from winter and birthing; minimize confusion and burden on hunters to buy two licenses; allow hunters who are deer and elk hunting to take a cougar through December 15 without having to call the toll-free line to determine if the area is open or not; provide the department an earlier time frame to manage the harvest guidelines; and attempt to minimize potential of exceeding the harvest guidelines.

WAC 220-415-120, where bighorn sheep graze frequently on private, agricultural lands, public tolerance for them can be compromised. Because we have no current place to translocate these sheep, a ewe-only hunt is recommended.

The Chelan Butte bighorn sheep population has also grown, providing opportunity for hunters interested in taking rams (we propose a split season, early and late). Because this herd is situated close to small farms and rural residences, the

risk of contact between bighorns and domestic sheep and goats is high. One action the department can take to manage this risk is to halt the slow down or halt the growth of the herd through increased provision of ewe permits.

WAC 220-415-130, mountain goat populations are sensitive to harvest of females, but identification of gender in the field is difficult. The department currently provides training videos and pamphlets to successful applicants for mountain goat hunting permits, but has no way of ensuring that these materials are used. The department proposes adding an online gender identification test that permit holders would be required to pass before being allowed to purchase a mountain goat hunting license. A passing score would be eighty percent, and permit holders could retake the test as often as needed until they achieved a passing score.

We now have reliable surveys indicating that goats inhabiting the Mt. St. Helens and Mt. Margaret areas are sufficiently abundant to sustain a conservative hunt. Thus, new hunts are proposed in this area.

The conflict reduction hunt in the East Olympic Mountains remains in the proposed WAC revision as of December 20, 2017, but we hope to remove it prior to the March commission meeting if we have more certainty that the multi-agency translocation project will commence in 2018. If agencies are moving goats from the Olympic Mountains, it would be inappropriate to provide hunters with the expectation that there would be goats for hunters to pursue in those same places.

The department's data suggests that mountain goat hunting in the Goat Rocks area has been sustainable, but almost all mountain goats taken have come from the more accessible portions of the area. Splitting the existing hunt area in two (and allocating permits approximately proportionally) would distribute harvest pressure more evenly among goats in the greater population.

WAC 220-416-010, annual shifts in the calendar require adjustment.

Turkey populations in those GMUs are high, causing crop and property damage. The proposed change will lengthen the fall season to facilitate additional turkey harvest and help mitigate those problems.

The turkey population in Klickitat County is doing well enough to support a general season hunting opportunity. In the past hunting in those GMUs were by draw permit only. The recommended change will do away with the draw permits and opens those GMUs to general season hunters.

A bobcat hunter mistakenly harvested a collared lynx at night last year. It is very difficult to differentiate the two species with artificial light or night vision equipment. The recommended rule change will help conserve the few lynx that exist in the lynx management zones by making it illegal to night hunt in the GMUs that fall within those zones.

WAC 220-416-060, waterfowl seasons and regulations are developed based on cooperative management programs among states of the Pacific Flyway Council and the United States Fish and Wildlife Service, considering population status and other biological parameters. The rule establishes waterfowl seasons and regulations to provide recreational opportunity, control waterfowl damage, and conserve the waterfowl resources in Washington.

WAC 220-440-030, WDFW is often called upon to address wildlife conflict issues involving cougar and other species of wildlife. The issues include both public safety and the protection of property. This commonly requires assistance from local citizens who own working dogs (commonly known as hounds), that are especially capable of, and trained for, the detection, tracking, and treeing [of] cougar. Due to broad hunting restrictions, working dogs are limited in access to training opportunities. Working dogs must be kept in peak physical condition in order to be effective. Young dogs require training in order to be of use. The current public safety cougar removal program was implemented as a pilot and has not been effective in addressing its original intent. Both the law enforcement and the wildlife programs support this concept. Representatives from the Humane Society of the United States and Conservation Northwest have been involved in creating this proposal and are in support.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.040, 77.12.047, 77.12.150, 77.12.210, 77.12.240, 77.12.320, 77.12.570, 77.12.800, 77.15.245, 77.32.007, 77.32.050, 77.32.070, 77.32.090, 77.32.370, and 77.32.530.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.020, 77.12.040, 77.12.047, 77.12.150, 77.12.210, 77.12.240, 77.12.320, 77.12.570, 77.12.800, 77.15.245, 77.32.007, 77.32.050, 77.32.070, 77.32.090, 77.32.370, and 77.32.530.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Eric Gardner, 600 Capitol Way North, Olympia, WA 98501, 360-902-2515; and Enforcement: Chief Steve Bear, 600 Capitol Way North, Olympia, WA 98501, 360-902-2373.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The rule proposal does not require a cost-benefit analysis and does not affect hydraulics.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Proposed rule does not affect small businesses.

January 24, 2018

Scott Bird
Rules Coordinator

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-400-050 Requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx, and bobcat. (1) It is unlawful to possess river otter, cougar, lynx, or bobcat taken in Washington without a department identification seal which has been attached to the raw pelt, on or off the carcass, prior to the pelt sealing deadline.

(2) The raw pelt of a bobcat or river otter must be presented to an authorized department employee, or authorized individual under permit with the department, for sealing ((within 20 days)) and the associated harvest report must be submitted to the department by April 20th after the close of the appropriate hunting or trapping season in which it was killed.

(3) Any person who takes a cougar without the use of dogs must notify the department and have the raw pelt sealed within 72 hours of kill (excluding legal state holidays) ((and provide)). The following information must be provided: The hunter's name, date and location of kill, and sex of animal. Any person who takes a cougar with the use of dogs must notify the department within 24 hours of kill (excluding legal state holidays) and provide the hunter's name, date and location of kill, and sex of animal. The raw pelt of a cougar taken with the use of dogs, under an authorized permit per WAC 220-440-030, must be presented to an authorized department employee for sealing within ((five days)) 72 hours of the notification of kill.

Any person who takes a cougar must present the cougar skull, in such a manner that teeth and biological samples can be extracted, to an authorized department employee at the time of sealing.

(4) It is unlawful to transport or cause the transport out of Washington a raw pelt of river otter, cougar, lynx, or bobcat taken in Washington without a department seal attached to the pelt.

(5) The raw pelt of a river otter, cougar, lynx, or bobcat taken outside Washington and imported into the state must be identified by a tag, seal or permit consistent with federal, state or country of origin laws and be accompanied by an invoice, declaration or permit specifying the number of pelts in the shipment.

(6) It is unlawful to possess an unlocked, broken, or otherwise open department seal for river otter, cougar, lynx, or bobcat unless the seal wire or band has been cut through and removed from a pelt that has been received and invoiced by a licensed taxidermist or fur dealer for processing or removed from a pelt that has been processed, except that individuals authorized by the department to seal pelts may possess open, unbroken seals.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-410-040 Game management units (GMUs) boundary descriptions—Region four.

GMU 407-NORTH SOUND (Whatcom, Skagit, Snohomish and King counties); (does not include Guemes Island):

Beginning at the NW corner of Whatcom County line and the US-Canadian border; E on the US-Canadian border to a point due north of Silver Lake Rd; S to Silver Lake Rd; S on Silver Lake Rd to State Route (SR) 542 (Mount Baker Hwy); SW on SR 542 (Mount Baker Hwy) to Mosquito Lake Rd; S on Mosquito Lake Rd to SR 9 (Valley Hwy); S on SR 9 (Valley Hwy) to SR 20 in the town of Sedro-Woolley; W and S on SR 20 to SR 9; S on SR 9 to SR 530 at the town of Arlington; NE on SR 530 to Jim Creek-Trafton Rd at the Trafton School in the town of Trafton; SE along Jim Creek-Trafton Rd (242nd St. NE) to the City of Seattle power transmission line; SW on the transmission line to Jordan Rd in Section 20, T31N, R6E; SE along Jordan Rd to SR 92 at the town of Granite Falls; E on SR 92 to South Alder Ave; S on South Alder Ave to E Pioneer St; E on East Pioneer St to Menzel Lake Rd; SE on Menzel Lake Rd to North Lake Roesiger Rd; S on North Lake Roesiger Rd to South Lake Roesiger Rd; S on South Lake Roesiger Rd to 242nd St SE; S on 242nd St SE to Woods Creek Rd; S on Woods Creek Rd to US Hwy 2 at the town of Monroe; W on US Hwy 2 to SR 203 at the town of Monroe; S on SR 203 to NE Woodinville-Duvall Rd at the town of Duvall; W on NE Woodinville-Duvall Rd to the Snoqualmie River; N down the Snoqualmie River to the Snohomish River; W down the Snohomish River to its mouth on the Puget Sound; W from the mouth of the Snohomish River to the northern tip of Gedney Island; due W from the northern tip of Gedney Island to a point on the Snohomish-Island County line; N along the Island-Snohomish County line in Possession Sound and Port Susan to Juniper Beach and N through Davis Slough to the Island-Snohomish-Skagit County junction; W and N along Island-Skagit County line through Skagit Bay and W through Deception Pass to San Juan-Skagit County line; N on the San Juan-Skagit County line to a point due West of Kelly's Point on Guemes Island; E from the San Juan-Skagit County line to Bellingham Channel, EXCLUDING Guemes Island; N through the middle of Bellingham Channel, then NE from Bellingham Channel to Carter Point on Lummi Island; NW from Carter Point to the Skagit-Whatcom County line; W along Skagit-Whatcom County line to the Whatcom-San Juan County line; NW along the Whatcom-San Juan County line to the US-Canadian border and the point of beginning.

**GMU 410-ISLANDS (San Juan and Skagit counties)
EXCLUDING Orcas, San Juan, Lopez, Shaw, Blakely,
Decatur, and Cypress Islands:**

Beginning at the junction of San Juan-Whatcom County lines and the US-Canadian border at the northernmost point in San Juan County; SE on the San Juan-Whatcom County line to the junction of San Juan-Whatcom-Skagit County lines; E on the Skagit-Whatcom County line to the first point where the Skagit-Whatcom County line turns SE; SE from the Skagit-Whatcom County line to Carter Point on Lummi Island; SW down the middle of Bellingham Channel to a point due W of Kelly's Point on Guemes Island and including Cypress Island; W to the Skagit-San Juan County line; S through Rosario Strait on the San Juan-Skagit County line to the San Juan-Skagit-Island County line; E on the Skagit-Island County line through Deception Pass and S through Skagit Bay to the Island-Snohomish-Skagit County junction; SE on the Island-Snohomish County line through Davis Slough,

Juniper Beach, Port Susan, Possession Sound to the Island-Kitsap County line; NW on the Island-Kitsap-Jefferson County line through Puget Sound, Admiralty Inlet, and the Strait of Juan De Fuca; W on the Clallam-Jefferson-San Juan County lines to the US-Canadian border; N on the US-Canadian border, through Middle Bank, Haro Strait, and Boundary Pass, to the northernmost corner of San Juan-Whatcom County line and the point of beginning.

GMU 411-ORCAS (San Juan County):

Includes all of Orcas Island

GMU 412-SHAW (San Juan County):

Includes all of Shaw Island

GMU 413-SAN JUAN (San Juan County):

Includes all of San Juan Island

GMU 414-LOPEZ (San Juan County):

Includes all of Lopez Island

GMU 415-BLAKEY (San Juan County):

Includes all of Blakely Island

GMU 416-DECATUR (San Juan County):

Includes all of Decatur Island

GMU 417-CYPRESS (Skagit County):

Includes all of Cypress Island

GMU 418-NOOKSACK (Whatcom and Skagit counties):

Beginning at the US-Canadian border and the western border of the North Cascades National Park; S on the North Cascades National Park boundary to Noisy Diobsud Wilderness Area boundary; W and S on Noisy Diobsud Wilderness Area boundary to a point due E of the head waters of Watson Creek; W to the headwaters of Watson Creek; S down Watson Creek to Thunder Creek; W down Thunder Creek to Baker River Rd; S along Baker River Rd to State Route (SR) 20 at the town of Concrete; W along SR 20 to SR 9 at the town of Sedro-Woolley; N along SR 9 to Mosquito Lake Rd; N on the Mosquito Lake Rd to SR 542 (Mount Baker Hwy); N on SR 542 to the Silver Lake Rd; N on the Silver Lake Rd to its northern most point; N from the Silver Lake Rd to the US-Canadian border; E on the US-Canadian border to the western border of the North Cascades National Park and the point of beginning.

GMU 419-GUEMES (Skagit County):

Includes all of Guemes Island

GMU 420-WHIDBEY (Island County):

Includes all of Whidbey Island

GMU 421-CAMANO (Island County):

Includes all of Camano Island

GMU 422-VASHON-MAURY (King County):

Includes all of Vashon and Maury Islands

((GMU 418 NOOKSACK (Whatcom and Skagit counties):

Beginning at the US-Canadian border and the western border of the North Cascades National Park; S on the North Cascades National Park boundary to Noisy Diobsud Wilderness Area boundary; W and S on Noisy Diobsud Wilderness Area

~~boundary to a point due E of the head waters of Watson Creek; W to the headwaters of Watson Creek; S down Watson Creek to Thunder Creek; W down Thunder Creek to Baker River Rd; S along Baker River Rd to State Route (SR) 20 at the town of Concrete; W along SR 20 to SR 9 at the town of Sedro-Woolley; N along SR 9 to Mosquito Lake Rd; N on the Mosquito Lake Rd to SR 542 (Mount Baker Hwy); N on SR 542 to the Silver Lake Rd; N on the Silver Lake Rd to its northern most point; N from the Silver Lake Rd to the US-Canadian border; E on the US-Canadian border to the western border of the North Cascades National Park and the point of beginning.)~~

GMU 426-DIABLO (Skagit and Whatcom counties):

Beginning at the US-Canadian border and the western boundary of the Ross Lake National Recreation Area; S on the Ross Lake National Recreation Area boundary, across SR 20 (North Cascades Hwy) and Skagit River, then NE and E on the Ross Lake National Recreation Area boundary to a point 2 miles east of Panther Creek, where the recreation boundary connects with the Okanogan National Forest boundary; S on North Cascades National Park boundary to the Skagit-Chelan County line at Fisher Peak; SE along the Skagit-Chelan County line to the US Forest Service (USFS) Trail 2000 (Pacific Crest National Scenic Trail); N on the USFS Trail 2000 to the Pasayten Wilderness boundary at Jim Pass; W along the Pasayten Wilderness boundary to the Ross Lake National Recreation Area boundary; N along the Ross Lake National Recreation Area-Pasayten Wilderness Area boundary to the US-Canadian border; W along the US-Canadian border to the NW corner of the Ross Lake National Recreation Area and the point of beginning.

GMU 437-SAUK (Skagit and Snohomish counties):

Beginning at the intersection of State Route (SR) 9 and SR 20, W of the town of Sedro-Woolley; E along SR 20 to Baker River Rd at the town of Concrete; N on Baker River Rd to Thunder Creek; E up Thunder Creek to Watson Creek; N up Watson Creek to its headwaters; E from the headwaters of Watson Creek to Noisy Diobsud Wilderness boundary; N and E on Noisy Diobsud Wilderness boundary to North Cascades National Park boundary; S and E along the North Cascades National Park boundary to the Ross Lake National Recreation boundary; S along the Ross Lake National Recreation Area boundary, across the SR 20 (North Cascade Hwy) and the Skagit River, then E along the Ross Lake National Recreation Area boundary to the North Cascades National Park boundary near Big Devil Peak; SE on the North Cascades National Park boundary to the Cascade River Rd; S on Cascade River Rd to US Forest Service (USFS) Rd 1590; S on USFS Rd 1590 to USFS Trail 769 (South Fork Cascade River Trail); S on USFS Trail 769 to the Glacier Peak Wilderness Area boundary; W and S on Glacier Peak Wilderness Area Boundary to the Suiattle River; W down the Suiattle River to the Sauk River; N on the Sauk River to SR 530 (Sauk Valley Rd); S on SR 530 to the town of Darrington; W on SR 530 to SR 9 at the town of Arlington; N on SR 9 to SR 20, W of the town of Sedro-Woolley, and the point of beginning.

GMU 448-STILLAGUAMISH (Snohomish and Skagit counties):

Beginning at the intersection of State Route (SR) 530 (Arlington-Darrington Hwy) and Jim Creek Rd at the town of Trafton; NE on SR 530 to the town of Darrington, where it is called Seeman St; N on SR 530 (Sauk Valley Rd) to the Sauk River; S on the Sauk River to Suiattle River; E along the Suiattle River to the Glacier Peak Wilderness Area boundary; S on the Glacier Peak Wilderness Area boundary to US Forest Service (USFS) Trail 650, West of June Mountain; W on the (USFS) Trail 650 to (USFS) Trail 1050 (Quartz Creek Trail) at Curry Gap; S on the USFS Trail 1050 to USFS Rd 6300; E on USFS Rd 6300 to USFS Trail 1051; NE on Trail 1051 to Henry M. Jackson Wilderness boundary; S along the Henry M. Jackson Wilderness boundary to Meadow Creek; S down Meadow Creek to Rapid River; E up Rapid River to USFS Trail 2000 (Pacific Crest National Scenic Trail) at Lake Janus; S on the USFS 2000 to SR 2 at Stevens Pass; W on SR 2 to Woods Creek Rd at the town of Monroe; N on Woods Creek Rd to 242nd St SE; N on 242nd St SE to South Lake Roesiger Rd; N on South Lake Roesiger Rd to North Lake Roesiger Rd; N on North Lake Roesiger Rd to Menzel Lake Rd; N on Menzel Lake Rd to East Pioneer St; W on East Pioneer St to South Alder Ave; N on South Alder Ave to SR 92 (E Stanley St); W on SR 92 to Jordan Rd; NW on Jordan Rd, through the town of Jordan, to the City of Seattle power transmission lines; NE on the transmission lines to Jim Creek-Trafton Rd (242nd St. NE); W on Jim Creek-Trafton Rd to SR 530 at the town of Trafton and the point of beginning.

GMU 450-CASCADE (Skagit and Snohomish counties):

Beginning on the Glacier Peak Wilderness boundary and Jordan Creek, W of Jordan Lakes; N and E on the wilderness boundary to US Forest Service (USFS) Trail 769; N on USFS Trail 769 to USFS Rd 1590; N on USFS Rd 1590 to the USFS Rd 15 (Cascade River Rd); N on USFS Rd 15 to the North Cascades National Park boundary; E on the North Cascades National Park boundary to USFS Trail 2000 (Pacific Crest National Scenic Trail); S on USFS Trail 2000 to the Rapid River at Lake Janus; NW down the Rapid River to Meadow Creek; N up Meadow Creek to Henry M. Jackson Wilderness Area boundary; N along the Henry M. Jackson Wilderness boundary to USFS Trail 1051; S on USFS Trail 1051 to USFS Rd 6300; W on USFS Rd 6300 to USFS Trail 1050; N on USFS Trail 1050 to USFS Trail 650 at Curry Gap; E on USFS Trail 650 to the Glacier Peak Wilderness boundary west of June Mountain; N on the Glacier Peak Wilderness boundary, across the Suiattle River, to Jordan Creek and the point of beginning.

GMU 454-ISSAQUAH (King and Snohomish counties); (does not include Vashon-Maury Island):

Beginning at the mouth of the Snohomish River at the city of Everett; SE up the Snohomish River to the Snoqualmie River; SE up the Snoqualmie River to NE Woodinville-Duvall Rd; E on NE Woodinville-Duvall Rd to State Route (SR) 203 at the town of Duvall; S on SR 203 to SR 202 (Fall City-Snoqualmie Rd) at the town of Fall City; S on SR 202 (Fall City-Snoqualmie Rd), across the Snoqualmie River, to Preston-Fall City Rd; SW on Preston-Fall City Rd to SE 82nd

St at the town of Preston; E on SE 82nd St to Interstate Hwy (I)-90; E on I-90 to SR 18; S on SR 18 to the Raging River; SE along the Raging River to Kerriston Rd; S on Kerriston Rd to the City of Seattle Cedar River Watershed boundary; W, S and E along the Cedar River Watershed boundary to US Forest Service (USFS) Rd 5100; S along USFS Rd 5100 to the posted boundary of the Green River Watershed; S along the posted boundary of the Green River Watershed to the USFS Rd 5410; S on USFS Rd 5410 to USFS Rd 5400; E on USFS Rd 5400 to the junction with posted boundary of the Green River Watershed; S on the posted Tacoma Green River Watershed boundary to USFS Rd 7110 (Weyerhaeuser (Weyco) 5200 line) near Lynn Lake; SW on USFS Rd 7110 (Weyco 5200 line) to SR 410; W on SR 410 to SR 164 at the city of Enumclaw; W on SR 164 to SR 18 at the city of Auburn; W on SR 18 to SR 99; N on SR 99 to SR 509; W on SR 509 to Redondo Way South; NW on Redondo Way South to the town of Redondo on Puget Sound; SW across East Passage to the Pierce-King County line at the point where the county line turns southeast, northwest of Dash Point; W and N along the King County line, EXCLUDING Vashon-Maury Island; to the King, Snohomish, and Kitsap counties line junction in the Puget Sound west of Point Wells; N on the Snohomish County line through Possession Sound to a point on the Snohomish County line due west of the northern tip of Gedney Island (Hat Island); E to the northern tip of Gedney Island; E from the northern tip of Gedney Island to the mouth of the Snohomish River and the point of beginning.

GMU 460-SNOQUALMIE (King and Snohomish counties):

Beginning at State Route (SR) 203 and SR 2 at the town of Monroe; E on SR 2 to US Forest Service (USFS) Trail 2000 (Pacific Crest National Scenic Trail) at Stevens Pass; S on the USFS Trail 2000 to the City of Seattle Cedar River Watershed; W on the Cedar River Watershed boundary to Kerriston Rd; N on Kerriston Rd to the Raging River; W and N along the Raging River to SR 18; N on SR 18 to Interstate Hwy (I)-90; W on I-90 to SE 82nd St at the town of Preston; NE on SE 82nd St to Preston-Fall City Rd; N on the Preston-Fall City Rd to SR 202 (Fall City-Snoqualmie Rd); N on SR 202 (Fall City-Snoqualmie Rd), across the Snoqualmie River, to SR 203; N on SR 203 to SR 2 at the town of Monroe and the point of beginning.

GMU 466-STAMPEDE (King County):

Beginning on the US Forest Service (USFS) Trail 2000 (Pacific Crest National Scenic Trail) and the east boundary of the City of Seattle Cedar River Watershed; S on the USFS Trail 2000, past Blowout Mountain, to USFS Rd 7038 at its closest point to the USFS Trail 2000 near Windy Gap north of Pyramid Peak; NW on USFS Rd 7038 to USFS Rd 7036; NW on USFS Rd 7036 to USFS Rd 7030; NW on USFS Rd 7030 to USFS Rd 7032; NW on USFS Rd 7032 to USFS Trail 1172; W on USFS Trail 1172 to about 1/4 mile past Williams Hole to the posted boundary of the City of Tacoma Green River Watershed; N on the posted City of Tacoma Green River Watershed boundary to the City of Seattle Cedar River Watershed boundary; N along City of Seattle Cedar River Watershed boundary to USFS Trail 2000 and the point of beginning.

GMU 485-GREEN RIVER (King County):

((Beginning at the junction of NW corner of the city of Tacoma Green River Watershed and US Forest Service (USFS) Rd 5100; E on the boundary between the Green River Watershed and the Cedar River Watershed to USFS Rd 5060; S on Rd 5060 to the posted boundary of the Green River Watershed; along the southern boundary of the Green River Watershed over Huckleberry Mountain and Grass Mountain to the USFS Rd 5400; NW along USFS Rd 5400 to USFS Rd 5410; N along USFS Rd 5410 to posted boundary of the City of Tacoma Green River Watershed; N along)) The area within the posted boundary of the City of Tacoma Green River Watershed ((to USFS 5100, N along USFS Rd 5100 to City of Tacoma Green River Watershed and City of Seattle Cedar River Watershed border and the point of beginning)).

GMU 490-CEDAR RIVER (King County):

The area within the posted boundary of the city of Seattle's Cedar River Watershed.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-410-050 Game management units (GMUs) boundary descriptions—Region five.

GMU 501-LINCOLN (Lewis, Thurston, Pacific, and Grays Harbor counties):

Beginning at the intersection of Interstate Hwy (I)-5 and State Route (SR) 6; W on SR 6 to Stevens Rd; NW on Stevens Rd to Elk Creek Rd at the town of Doty; W on Elk Creek Rd to Weyerhaeuser (Weyco) 7000 line; W and N on Weyco 7000 line to Weyco 7400 line; N on Weyco 7400 line to Weyco 7050 line; NE on Weyco 7050 line to Weyco 7000 line; NW and N on Weyco 7000 line to the Weyco 7800 line; N on Weyco 7800 line to Weyco 7800 F line; NE on Weyco 7800 F line to Weyco 720 line; E on Weyco 720 line to Weyco 723 line; NW on Weyco 723 line to the Weyco C line; NE on Weyco C line to Garrard Creek Rd; NE on Garrard Creek Rd to South Bank Rd; E on South Bank Rd to North State St; N on North State St to US Hwy (US) 12 at the town of Oakville; E on US 12 to I-5; S on I-5 to SR 6 and point of beginning.

GMU 503-RANDLE (Lewis County):

Beginning at the intersection of US Hwy (US) 12 and the Rayonier 100 Mainline (Kosmos Rd, Old Champion Haul Rd); E on US 12 to State Route (SR) 131; S on SR 131 to US Forest Service (USFS) Rd 25; S on the USFS Rd 25 to the Cispus River; W on the Cispus River to Rayonier 271 line; S on the Rayonier 271 line to the Rayonier 300 line; W on the Rayonier 300 line to the Rayonier 100 line (Kosmos Haul Rd); N on the Rayonier 100 line to US 12 and the point of beginning.

GMU 504-STELLA (Cowlitz County):

Beginning at the mouth of the Cowlitz River on the Columbia River; W down the Columbia River to the mouth of Germany Creek (including all islands in the Columbia River which are both north of the Washington-Oregon state line and between the Cowlitz River and Germany Creek); N up Germany Creek to State Route (SR) 4; E on SR 4 to Germany Creek

Rd; N on Germany Creek Rd to International Paper (IP) 1000 line; N on IP 1000 line to IP 1050 line; E on IP 1050 line to IP 2200 line; E and S on IP 2200 to Woodside Dr; NE on Woodside Dr to Delameter Rd; E on Delameter Rd to the three power lines; N along the three power lines to Weyerhaeuser (Weyco) 9312 line; E on Weyco 9312 line to Growlers Gulch Rd; E on Growlers Gulch Rd to Public Hwy (PH) 10 Rd; E along the Public Hwy (PH) 10 Rd to the A Street bridge over the Cowlitz River at the town of Castle Rock; S down the Cowlitz River to the Columbia River and point of beginning.

GMU 505-MOSSYROCK (Lewis County):

Beginning on Interstate Hwy (I)-5 and the Cowlitz River; NE up the Cowlitz River to the Mayfield Dam; NE along the south shore of Mayfield Lake to the US Hwy (US) 12 bridge; NE on US 12 to Winston Creek Rd; SE on Winston Creek Rd to Longbell Rd; E on Longbell Rd to Perkins Rd; NE on Perkins Rd to Green Mountain Rd; E on Green Mountain Rd to the outlet of Swofford Pond; E along the Swofford Pond outlet to Riffe Lake; E along the south shore of Riffe Lake to the Cowlitz River; up the Cowlitz River to the Rayonier 100 Mainline (Kosmos Haul Rd); N on the Rayonier 100 Mainline to US 12; W on US 12 to Davis Lake Rd; N and W on Davis Lake Rd to Main St at town of Morton; W on Main St to SR 508; W on SR 508 to Centralia-Alpha Rd; W and N on Centralia-Alpha Rd to Salzer Valley Rd; W on Salzer Valley Rd to Summa St at the town of Centralia; W on Summa St to Kresky Rd; N on Kresky Rd to Tower St; N on Tower St to SR 507; W on SR 507 (Cherry St, Alder St, and Mellen St) to I-5; S on I-5 to the Cowlitz River and point of beginning.

GMU 506-WILLAPA HILLS (Wahkiakum, Pacific and Lewis counties):

Beginning at State Route (SR) 6 and 3rd St S at the town of Pe Ell; S on 3rd St S to Muller Rd; S on Muller Rd to Weyerhaeuser (Weyco) 1000 line; S on Weyco 1000 line to Weyco 1800 line; S on Weyco 1800 line to Weyco 500 line; SE on Weyco 500 line to SR 407 (Elochoman Valley Rd) at Camp 2; S on SR 407 to the Elochoman River; down the Elochoman River to Foster Rd; N on Foster Rd to Risk Rd; W and N along Risk Rd to SR 4; W on SR 4 to Skamokawa Creek; SW down Skamokawa Creek to the Columbia River; W along Columbia River to the mouth of the Deep River (including all islands in the Columbia River which are both north of the Washington state line and between Skamokawa Creek and Deep River); N along the Deep River to SR 4; NW on SR 4 to the Salmon Creek Rd; NE on Salmon Creek Rd to Weyco 5000 line; N on Weyco 5000 line to Weyco 5800 line; NE on Weyco 5800 line to power transmission line (Section 21, T11N, R8W); E, NE, then N on the power transmission line to the Trap Creek A Line; E and N on the Trap Creek A Line to SR 6; E on SR 6 to the town of Pe Ell and the point of beginning.

GMU 510-STORMKING (Lewis County):

Beginning on US Hwy (US) 12 at the Silver Creek bridge; N up Silver Creek to Silverbrook Rd; E on Silverbrook Rd to US Forest Service (USFS) Rd 47; N on USFS Rd 47 to USFS Rd 85; W and N on USFS Rd 85 to USFS Rd 52; N on USFS Rd 52 to the Nisqually River; W down the Nisqually River to State Route (SR) 7; S on SR 7 to Main St at town of Morton;

E on Main St to Davis Lake Rd; E on Davis Lake Rd to US 12; E on US 12 to the Silver Creek bridge and point of beginning.

GMU 513-SOUTH RAINIER (Lewis County):

Beginning on US Hwy (US) 12 at the Silver Creek bridge; N up Silver Creek to Silverbrook Rd; E on Silverdale Rd to US Forest Service (USFS) Rd 47; N on USFS Rd 47 to USFS Rd 85; W and N on USFS Rd 85 to USFS Rd 52; W and N on USFS Rd 52 to the Nisqually River; E up the Nisqually River to the southern boundary of Mount Rainier National Park; E along the south park boundary to the USFS Trail 2000 (Pacific Crest National Scenic Trail); S along the USFS Trail 2000 to US 12; W on US 12 to the Silver Creek bridge and point of beginning.

GMU 516-PACKWOOD (Lewis and Skamania counties):

Beginning at US Hwy (US) 12 and US Forest Service (USFS) Trail 2000 (Pacific Crest National Scenic Trail) at White Pass; S on USFS Trail 2000 to the Yakama Indian Reservation border; S on the Yakama Indian Reservation border to USFS Trail 2000; S on USFS Trail 2000 to USFS Trail 98 at Sheep Lake; W on USFS Trail 98 to USFS Rd 2160 at Walupt Lake; W on USFS Rd 2160 to USFS Rd 21; S and W on USFS Rd 21 to USFS Rd 23; S on USFS Rd 23 to USFS Trail 263; S and W on USFS 263 to USFS Trail 261; S on USFS Trail 261 to USFS Trail 1; W on USFS Trail 1 to USFS Rd 99; W on USFS Rd 99 to USFS Rd 26; N on USFS Rd 26 to USFS Rd 2612; W on USFS Rd 2612 to USFS Trail 217; N and W on USFS Trail 217 to Weyerhaeuser (Weyco) 2600 line; W on Weyco 2600 line to Weyco 2658 line; N on Weyco 2658 line to Rayonier (Campbell Group) 430 line; N on Rayonier 430 line to the Rayonier Mainline 400 line; N and E on Rayonier Mainline 400 line to Rayonier 300 line; E on Rayonier 300 line to Rayonier 271 line; N on Rayonier 271 line to the Cispus River; E on the Cispus River to USFS Rd 25; N on USFS Rd 25 to State Route (SR) 131; N on SR 131 to US 12; E on US 12 to the USFS Trail 2000 at White Pass and beginning.

GMU 520-WINSTON (Cowlitz, Lewis and Skamania counties):

Beginning at the bridge at intersection of Interstate Hwy (I)-5 and the Cowlitz River; S down the Cowlitz River to the Toutle River; E up the Toutle River to the South Fork Toutle River; SE up South Fork Toutle River to Johnson Creek; NE up Johnson Creek to Weyerhaeuser (Weyco) 4400 line; N along Weyco 4400 line to Weyco 2421 line; N along Weyco 2421 line to Weyco 2400 line; NW along Weyco 2400 line to Alder Creek; NW down Alder Creek to North Fork Toutle River; W down the North Fork Toutle River to the Green River; E up the Green River to US Forest Service (USFS) Rd 2612; E on USFS Rd 2612 to USFS Trail 217; N and W on USFS Trail 217 to Weyco 2600 line; W on Weyco 2600 line to Weyco 2658 line; N on Weyco 2658 line to Rayonier 430 line; N on Rayonier 430 line to Rayonier 400 Mainline; N and E on Rayonier 400 Mainline to Rayonier 100 Mainline; N on Rayonier 100 Mainline to Cowlitz River; W down the Cowlitz River to Riffe Lake; W along the south shore to the Swofford Pond outlet; W along the Swofford Pond outlet to Green Mountain Rd; W on Green Mountain Rd to Perkins Rd; SW on Perkins Rd to Longbell Rd; W on Longbell Rd to

Winston Creek Rd; NW on Winston Creek Rd to US Hwy (US) 12; SW on US 12 to the Mayfield Lake bridge at Mayfield Lake; SW down the south shore of Mayfield Lake to the Cowlitz River at Mayfield Dam; SW down the Cowlitz River to I-5 bridge crossing the Cowlitz River and point of beginning.

GMU 522-LOO-WIT (Cowlitz and Skamania counties):

Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; SE up the North Fork Toutle River to Deer Creek; SE up Deer Creek to Weyerhaeuser (Weyco) 3020 line; NW along Weyco 3020 line to Weyco 3000 line; E along Weyco 3000 line to US Forest Service (USFS) Trail 216G; SE along USFS Trail 216G to USFS Trail 216; S on USFS Trail 216 to South Fork of the Toutle River; E along South Fork Toutle River to its headwaters and Mount St. Helens crater's southern edge; E along the Mt. St. Helens crater's southern edge to the headwaters of Ape Canyon Creek; ((NE)) SE down Ape Canyon Creek to USFS Trail 225 (Smith Creek Trail); N and NW on USFS Trail 225 to USFS Rd 99; NE along USFS Rd 99 to USFS Rd 26; N on USFS Rd 26 to USFS Trail 1 (Boundary Trail); W on USFS Trail 1 to USFS Trail 214 (Whittier Trail); N on USFS Trail 214 to USFS Trail 211 (Lakes Trail); W on USFS Trail 211 to USFS Trail 211, USFS Trail 230 (Coldwater Trail) junction; NE to Minnie Peak; W to the USFS property boundary in the SE 1/4 of Section 20, T10N, R5E; W and S on USFS property boundary to State Route 504 near the center of Section 35, T10N, R4E; W on SR 504 to Hoffstadt Creek Bridge on Hoffstadt Creek; S and W down Hoffstadt Creek to the North Fork Toutle River and point of beginning.

GMU 524-MARGARET (Cowlitz, Skamania and Lewis counties):

Beginning on the North Fork Toutle River at the mouth of the Green River; SE up the North Fork Toutle River to the mouth of Hoffstadt Creek; N and E up Hoffstadt Creek to the State Route (SR) 504 bridge over Hoffstadt Creek; E on SR 504 to US Forest Service (USFS) property boundary near the center of Section 35, T10N, R4E; E and N on USFS property boundary to the USFS property boundary in the SE 1/4 of Section 20, T10N, R5E; E to Minnie Peak; SW to USFS Trail 211 (Lakes Trail) and USFS Trail 230 (Coldwater Trail) junction; E on USFS Trail 211 (Lakes Trail) to USFS Trail 214 (Whittier Trail); S on USFS Trail 214 to USFS Trail 1 (Boundary Trail); E on USFS Trail 1 to USFS Rd 26; N on USFS Rd 26 to USFS Rd 2612; W on USFS Rd 2612 to the Green River; W down the Green River to its mouth on the North Fork of the Toutle River and point of beginning.

GMU 530-RYDERWOOD (Cowlitz, Lewis and Wahkiakum counties):

Beginning at Stevens Rd and State Route (SR) 6, south of the town of Doty; E on SR 6 to Interstate Hwy (I)-5 at the town of Chehalis; S on I-5 to the Cowlitz River; S along the Cowlitz River to Public Hwy 10 on the A Street bridge at the town of Castle Rock; W on the Public Hwy 10 to Growler's Gulch Rd; W on Growler's Gulch Rd to Weyerhaeuser (Weyco) 9312 line; W on Weyco 9312 line to three power lines; S on the three power lines to Delameter Rd; SW on Delameter Rd to Woodside Dr; SW on Woodside Dr to International Paper (IP) 2200 line; N and W on IP 2200 line to IP

1050 line; W on IP 1050 line to IP 1000 line; S on IP 1000 line to the Germany Creek Rd; S on the Germany Creek Rd to SR 4; W on SR 4 to Germany Creek; S along Germany Creek to its mouth at the Columbia River; W along the Columbia River to Skamokawa Creek (including all islands in the Columbia River which are both north of the Washington state line and between Skamokawa Creek and Germany Creek); NE up Skamokawa Creek to SR 4; E on SR 4 to Risk Rd; SE on Risk Rd to Foster Rd; S on Foster Rd to the Elochoman River; SE up the Elochoman River to SR 407 (Elochoman Valley Rd); NE on SR 407 to Weyco 500 line at Camp 2; NW on Weyco 500 line to Weyco 1800 line; N on Weyco 1800 line to Weyco 1000 line; N on Weyco 1000 line to Muller Rd; N on Muller Rd to 3rd St South in the town of Pe Ell; N on 3rd St South to SR 6 at the town of Pe Ell; N on SR 6 to Stevens Rd, south of the town of Doty, and the point of beginning.

GMU 550-COWEEMAN (Cowlitz County):

Beginning at the mouth of the Toutle River on the Cowlitz River; E along the Toutle River to the South Fork Toutle River; up the South Fork Toutle River to Weyerhaeuser (Weyco) 4100 line; E on Weyco 4100 line to Weyco 4950 line; S and E on Weyco 4950 line to Weyco 235 line; SE on Weyco 235 line to Weyco 200 line; W on Weyco 200 line to Weyco 240 line; SE on Weyco 240 line to Weyco 243 line; E on Weyco 243 line to Weyco 135A line; S on Weyco 135A line to Weyco 135 line; E on Weyco 135 line to Weyco 134 line; SW on Weyco 134 line to Weyco 133 line; SW on Weyco 133 line to Weyco 130 line; SW on Weyco 130 line to Weyco 1680 line; W on Weyco 1680 line to Weyco 1600 line; SE on Weyco 1600 line to Weyco 1400 line; W on Weyco 1400 line to Weyco 1420 line which is the Kalama/Ceweeman Summit; SE on Weyco 1420 line to Weyco 1426 line; W on Weyco 1426 line to Weyco 1428 line; SW on Weyco 1428 line to Weyco 1429 line which turns into Weyco 6400 line; SW down Weyco 6400 line to Weyco 6000 line; E on Weyco 6000 line to Weyco 6450 line; SE for approximately one mile on Weyco 6450 line (crossing the Kalama River) to Weyco 6452 line; SE on Weyco 6452 line to Dubois Rd; SE on Dubois Rd to State Route (SR) 503; W on SR 503 to Cape Horn Creek; SE down Cape Horn Creek to Merwin Reservoir; SW along the north shore of Merwin Reservoir to the Lewis River; SW down the Lewis River to the power transmission lines in Section 4, T5N, R2E; NW along the power transmission lines to Northwest Natural Gas Pipeline located east of the town of Kalama, approximately 1/2 mile east of China Gardens Rd; N up the Natural Gas Pipeline right of way to Ostrander Creek; W down Ostrander Creek to the Cowlitz River; N on the Cowlitz River to the Toutle River and point of beginning.

GMU 554-YALE (Cowlitz and Clark counties):

Beginning on State Route (SR) 503 at its crossing of Cape Horn Creek; E on SR 503 to Weyerhaeuser (Weyco) 6600 line (Rock Creek Rd); NE on Weyco 6600 line to Weyco 6690 Rd; N and E on Weyco 6690 line to West Fork Speelyai Creek; SE down West Fork Speelyai Creek to the main stem of the Speelyai Creek; SW and SE down Speelyai Creek to SR 503; NE on SR 503 to Dog Creek; S down Dog Creek to Yale Reservoir; S and W along western shore of Reservoir to

Yale Dam and the North Fork Lewis River; W along the northern shore of the North Fork Lewis River to SR 503 bridge crossing; S and W along SR 503 to NE 221st Ave; N about 1/4 mile on NE 221st Ave to NE Cedar Creek Rd; W along NE Cedar Creek Rd to NE Pup Creek Rd; N on NE Pup Creek Rd to NE Buncombe Hollow Rd; N about 1/4 mile on NE Buncombe Hollow Rd to power transmission line; S and W on the power transmission line to the north shore of the North Fork Lewis River; NE along the north shore of the North Fork Lewis River to Merwin Reservoir at the Merwin Dam; NE along the north shore of Merwin Reservoir to Cape Horn Creek; NW up Cape Horn Creek to SR 503 and the point of beginning.

GMU 556-TOUTLE (Cowlitz County):

Beginning on the intersection of State Route (SR) 503 (Lewis River Rd) and US Forest Service (USFS) Rd 81 (Merrill Lake Rd); N on USFS Rd 81 to Weyerhaeuser (Weyco) 7200 line; NW on Weyco 7200 line to Weyco 7400 line; N on Weyco 7400 line to Weyco 5500 line; E and N on Weyco 5500 line to Weyco 5670 line; N and E on Weyco 5670 line to Weyco 5660 line; N on Weyco 5660 line about a 1/4 mile to the South Fork Toutle River; E on the South Fork Toutle River to USFS Trail 216; N on USFS Trail 216 to USFS Trail 216G; NW on USFS Trail 216G to Weyco 3000 line; W on Weyco 3000 line to Weyco 3020 line; SE on Weyco 3020 line to Deer Creek; NW down Deer Creek to the North Fork Toutle River; down the North Fork Toutle River to Alder Creek; up Alder Creek to Weyco 2400 line; S on Weyco 2400 line to Weyco 2421 line; S on Weyco 2421 line to Weyco 4400 line; S and W along Weyco 4400 line to Johnson Creek; S along Johnson Creek to the South Fork Toutle River; SE up the South Fork Toutle River to Weyco 4100 line; E on Weyco 4100 line to the Weyco 4950 line; S and E on Weyco 4950 line to Weyco 235 line; SE on Weyco 235 line to Weyco 200 line; W on Weyco 200 line to Weyco 240 line; SE on Weyco 240 line to Weyco 243 line; E on Weyco 243 line to Weyco 135A line; S on Weyco 135A line to Weyco 135 line; E on Weyco 135 line to Weyco 134 line; SW on Weyco 134 line to Weyco 133 line; SW on Weyco 133 line to Weyco 130 line; SW on Weyco 130 line to Weyco 1680 line; W on Weyco 1680 line to Weyco 1600 line; SE on Weyco 1600 line to Weyco 1400 line; W on Weyco 1400 line to Weyco 1420 line which is the Kalama/Ceweeman Summit; SE on Weyco 1420 line to Weyco 1426 line; W on Weyco 1426 line to Weyco 1428 line; SW on Weyco 1428 line to Weyco 1429 line; SW on Weyco 1429 line to Weyco 6400 line; SW on Weyco 6400 line to Weyco 6000 line; E on Weyco 6000 line to Weyco 6450 line; SE for approximately one mile on Weyco 6450 line (crossing the Kalama River) to Weyco 6452 line; SE on Weyco 6452 line to Dubois Rd; SE on Dubois Rd to SR 503; E on SR 503 to Weyco 6600 line (Rock Creek Rd); NE on Weyco 6600 line to Weyco 6690 line; N and E on Weyco 6690 line to West Fork Speelyai Creek; SE down West Fork Speelyai Creek to the main stem of Speelyai Creek; SW and SE down Speelyai Creek to SR 503; NE on SR 503 to USFS Rd 81 and point of beginning.

GMU 560-LEWIS RIVER (Cowlitz, Skamania, Klickitat, Yakima, and Lewis counties):

Beginning on State Route (SR) 141 and Mount Adams Recreational Area Rd at the town of Trout Lake; N on the Mount Adams Recreational Area Rd to US Forest Service (USFS) Rd 82 (Mount Adams Recreational Area Rd); N on USFS Road 82 to Yakama Indian Reservation boundary (Section 16, T7N, R11E); N along the Yakama Indian reservation boundary (Cascade Mountain Range Crest) to USFS Trail 2000 (Pacific Crest National Scenic Trail) in Section 3, T11N, R11E; S on USFS Trail 2000 to USFS Trail 98 at Sheep Lake; W on USFS Trail 98 to USFS Rd 2160 at Walupt Lake; W on USFS Rd 2160 to USFS Rd 21; S and W on USFS Rd 21 to USFS Rd 23; S on USFS Rd 23 to USFS Trail 263; S and W on USFS Trail 263 to USFS Trail 261; S on USFS Trail 261 to USFS Trail 1; W on USFS Trail 1 to USFS Rd 99; S and W on USFS Rd 99 to USFS Trail 225 (Smith Creek Trail); S on USFS Trail 225 to Ape Canyon Creek; ((S)) N and W up Ape Canyon Creek to Mt. St. Helens crater's eastern edge; W along Mt. St. Helens crater's southern edge to headwaters of S Fork Toutle River; W along S Fork Toutle River to Weyerhaeuser (Weyco) 5660 line; S along Weyco 5660 line to Weyco 5670 line; S and W on Weyco 5670 line to Weyco 5500 line; S and W on Weyco 5500 line to Weyco 7400 line; S and E on Weyco 7400 line to Weyco 7200 line; S and E on Weyco 7200 line to USFS Rd 81; S on USFS Rd 81 to SR 503; N and E on SR 503 to Dog Creek; S down Dog Creek to the N shore of Yale Reservoir; E along N shore of Yale Reservoir to N Fork Lewis River; E up the Lewis River to Swift Dam and Swift Reservoir; E along the N shore of Swift Reservoir to N Fork Lewis River; E up N Fork Lewis River to USFS Rd 90 Bridge (Eagle Cliff); E on USFS Rd 90 to USFS Rd 51 (Curly Creek Rd); SE on USFS Rd 51 to USFS Rd 30; NE on USFS Rd 30 to USFS Rd 24; SE on USFS Rd 24 to SR 141; NE on SR 141 to Mount Adams Recreational Area Rd, at the town of Trout Lake and point of beginning.

GMU 564-BATTLE GROUND (Clark, Skamania, and Cowlitz counties):

Beginning at the mouth of Ostrander Creek on the Cowlitz River; E up Ostrander Creek approximately 1 1/2 miles to the second Northwest Natural Gas Pipeline right of way crossing Ostrander Creek, east of the railroad crossing; S along the Northwest Natural Gas Pipeline right of way to the power transmission lines right of way located east of the town of Kalama, approximately 1/2 mile east of China Garden Rd; SE along the power transmission lines right of way across the north fork of the Lewis River in the northeast corner of Section 4, T5N, R2E to NE Buncombe Hollow Rd; S on NE Buncombe Hollow Rd to NE Pup Creek Rd; S on NE Pup Creek Rd to NE Cedar Creek Rd; E on NE Cedar Creek Rd to NE 221st Ave; S along NE 221st Ave to SR 503, to NE Amboy Rd; S on NE Amboy Rd to W Yacolt Rd; E on W Yacolt Rd to N Railroad Ave; SE on N Railroad Ave, which becomes S Railroad Ave; SE on S Railroad Ave which becomes NE Railroad Ave; SE on NE Railroad Ave to Lucia Falls Rd; W on Lucia Falls Rd to Hantwick Rd; SE on Hantwick Rd to Basket Flats Rd; W on Basket Flats Rd to NE 197th Ave; S on NE 197th Ave to NE 279th St; W on NE 279th St to NE 182nd Ave; S on NE 182nd Ave to NE 259th St; E on NE

259th St to NE 220th Ave; S on NE 220th Ave which turns into NE Cresap Rd; SE on NE Cresap Rd which turns into NE 222nd Ave; S on NE 222nd Ave to NE Allworth Rd; E on NE Allworth Rd to NE 232nd Ave; S on NE 232nd Ave to NE 237th St; E on NE 237th St which turns into NE 240th Ave; S on NE 240th Ave to NE Berry Rd; NE on NE Berry Rd to the DNR L-1410 Rd; SE on DNR L-1410 Rd to the DNR L-1400 Rd; W on DNR L-1400 Rd which turns into NE Rawson Rd; W on NE Rawson Rd to NE Powell Rd; SW on NE Powell Rd to NE 212th Ave; S on NE 212th Ave to NE 109th St; E on NE 109th St to NE 222nd Ave; S on NE 222nd Ave to NE 83rd St; W on NE 83rd St to NE 217th Ave; S on NE 217th Ave to NE 68th St; E on NE 68th St to NE 232nd Ave; S on NE 232nd Ave to NE 54th St; E on NE 54th St to NE 237th Ave; S on NE 237th Ave to NE 53rd St; E on NE 53rd St which turns into NE Bradford Rd then back into NE 53rd St to NE 292nd Ave; S on NE 292nd Ave to NE Ireland Rd; E on NE Ireland Rd to NE Stauffer Rd; E then SW on NE Stauffer Rd to NE 292nd Ave; S on NE 292nd Ave which turns into NE Reilly Rd; SW on NE Reilly Rd to NE Blair Rd; SE on NE Blair Rd to NE Zeek Rd; E on NE Zeek Rd which turns into NE 10th St; E on NE 10th St which turns into NE 312th Ave; S on NE 312th Ave to NE 9th St; E on NE 9th St to NE 322nd Ave; N on NE 322nd Ave which turns into NE Ammeter Rd; NE on NE Ammeter Rd approximately 1/8 mile to the power transmission lines; E along the northern margin of the power transmission lines to NE Hughes Rd; N on NE Hughes Rd which turns into NE 392nd Ave; N on NE 392nd Ave to NE 28th St; E on NE 28th St to NE Miller Rd; NE on NE Miller Rd which turns into NE 39th St; E on NE 39th St to Skye Rd; SE on Skye Rd to Washougal River Rd; S on Washougal River Rd to Canyon Creek Rd; SE on Canyon Creek Rd to Salmon Falls Rd; S on Salmon Falls Rd to State Route (SR) 14; E on SR 14 to Cape Horn Rd; S on Cape Horn Rd to Columbia River; W down the Columbia River to the Cowlitz River (including all islands in the Columbia River which are both on the Washington side of the state line and between Cape Horn Rd and the Cowlitz River); N along Cowlitz River to Ostrander Creek and point of beginning.

GMU 568-WASHOUGAL (Clark and Skamania counties):

Beginning on the Lewis River at State Route (SR) 503; E on Lewis River (Cowlitz-Clark County line) to Canyon Creek; SE up Canyon Creek to NE Healy Rd; E on NE Healy Rd to US Forest Service (USFS) Rd 54; E on USFS Rd 54 to USFS Rd 53; S on USFS Rd 53 to USFS Rd 4205 (Gumboot Rd); S on USFS Rd 4205 to USFS Rd 42 (Green Fork Rd); SW on USFS Rd 42 to USFS Rd 41 at Sunset Falls; E on USFS Rd 41 to Hemlock Rd; E on Hemlock Rd to the Hemlock Rd bridge over the Wind River; SE down the Wind River to the Columbia River; W down the Columbia River to the Cape Horn Rd (including all islands in the Columbia River which are both on the Washington side of the state line and between Cape Horn Rd and the Wind River); N on Cape Horn Rd to SR 14; W on SR 14 to Salmon Falls Rd; N on Salmon Falls Rd to Canyon Creek Rd; NW on Canyon Creek Rd to Washougal River Rd; E on Washougal River Rd to Skye Rd; NW on Skye Rd to NE 39th St; W on NE 39th St which turns into NE Miller Rd; SW on NE Miller Rd to NE 28th St; W on NE 28th St to NE 392nd Ave; S on NE 392nd Ave which turns

into NE Hughes Rd; S on NE Hughes Rd approximately 1/8 mile to the power transmission lines; W along the northern margin of the power transmission lines to NE Ammeter Rd; SW on NE Ammeter Rd which turns into NE 322nd Ave; S on NE 322nd Ave to NE 9th St; W on NE 9th St to NE 312th Ave; N on NE 312th Ave which turns into NE 10th St; W on NE 10th St which turns into NE Zeek Rd; W on NE Zeek Rd to NE Blair Rd; NW on NE Blair Rd to NE Reilly Rd; NE on NE Reilly Rd which turns into NE 292nd Ave; E on NE 292nd Ave to NE Stauffer Rd; NE then NW on NE Stauffer Rd to NE Ireland Rd; W on NE Ireland Rd to NE 292nd Ave; N on NE 292nd Ave to NE 53rd St; W on NE 53rd St which turns into NE Bradford Rd then turns into NE 53rd St again to NE 237th Ave; N on 237th Ave to NE 232nd Ave; N on NE 232nd Ave to NE 68th St; W on NE 68th St to NE 217th Ave; N on NE 217th Ave to NE 83rd St; E on NE 83rd St to NE 222nd Ave; N on NE 222nd Ave to NE 109th St; W on NE 109th St to NE 212th Ave; N on NE 212th Ave to NE Powell Rd; NE on NE Powell Rd to NE Rawson Rd; E on Rawson Rd to DNR L-1400 Rd; E on DNR L-1400 Rd to DNR L-1410 Rd; NW on DNR L-1410 Rd to NE Berry Rd; W then SW on NE Berry Rd to NE 240th Ave; N on NE 240th Ave which turns into NE 237th St; W on NE 237th St to NE 232nd Ave; N on NE 232nd Ave to NE Allworth Rd; W on NE Allworth Rd to NE 222nd Ave; N on NE 222nd Ave which turns into NE Cresap Rd which turns into NE 220th Ave to NE 259th St; W on NE 259th St to NE 182nd Ave; N on NE 182nd Ave to NE 279th St; E on NE 279th St to NE 197th Ave; N on NE 197th Ave to NE Basket Flats Rd; E on NE Basket Flats Rd to NE Hantwick Rd; N then NW on NE Hantwick Rd to Lucia Falls Rd; E on Lucia Falls Rd to NE Railroad Ave; NW on NE Railroad Ave, which turns into S Railroad Ave then N Railroad Ave in the town of Yacolt, to W Yacolt Rd; W on W Yacolt Rd to NE Amboy Rd; N on NE Amboy Rd to NE 221st Ave; N on 221st Ave to SR 503; NE along SR 503 to the Lewis River and point of beginning.

GMU 572-SIOUXON (Skamania and Clark counties):

Beginning at the Yale Dam at Yale Lake; N then E along the shore of Yale Lake to the Lewis River; NE along the Lewis River to Swift Reservoir; E along the north shore Swift Reservoir to US Forest Service (USFS) Rd 90 at the Eagle Cliff bridge; E on USFS Rd 90 to USFS Rd 51 (Curly Creek Rd); SE on USFS Rd 51 to USFS Rd 30 (Wind River Rd); N on USFS Rd 30 to USFS Rd 24 (Twin Butte Rd); S on USFS Rd 24 to USFS Rd 60 (Carson Guler Rd); SW on USFS Rd 60 to USFS Rd 65; SW on USFS Rd 65 to USFS Rd 6517 (Warren Gap Rd); W on USFS Rd 6517 to the Wind River Rd; S on the Wind River Rd to Hemlock Rd at the town of Stabler; W on Hemlock Rd to USFS Rd 41 (Sunset-Hemlock Rd); W on the USFS Rd 41 to USFS Road 42 (Green Fork Rd) at Sunset Falls; NE on USFS Rd 42 to USFS Rd 4205 (Gumboot Rd); N on USFS Rd 4205 to USFS Rd 53; NW on USFS Rd 53 to USFS Rd 54 (NE Healy Rd); W on USFS Rd 54 to Canyon Creek; N down Canyon Creek to the Lewis River; NE up the Lewis River to the Yale Dam and the point of beginning.

GMU 574-WIND RIVER (Skamania and Klickitat counties):

Beginning at the town of Trout Lake; S on State Route (SR) 141 to the SR 141 bridge over the White Salmon River

Bridge at Husum; S on the White Salmon River to the Columbia River; W down the Columbia River to the mouth of Wind River (including all islands in the Columbia River that are both north of the Washington state line and between the White Salmon River and Wind River); NW up the Wind River to the Hemlock Rd bridge; E on Hemlock Rd to Wind River Rd; N on Wind River Rd to US Forest Service (USFS) Rd 6517 (Warren Gap Rd); E on USFS Rd 6517 to USFS Rd 65 (Panther Creek Rd); N on USFS Rd 65 to USFS Rd 60; NE on USFS Rd 60 to USFS Rd 24 (also called Carson-Gular Rd); E on USFS Rd 24 to SR 141; NE on SR 141 to the town of Trout Lake and the point of beginning.

GMU 578-WEST KLICKITAT (Klickitat and Yakima counties):

Beginning at the mouth of the White Salmon River on the Columbia River; N up the White Salmon River to the State Route (SR) 141 bridge over the White Salmon River at Husum; N on SR 141 to Mount Adams Recreation Area Road, at the town of Trout Lake; N on the Mount Adams Recreational Area Rd to US Forest Service (USFS) Rd 82 (Mount Adams Recreational Area Rd); N on USFS Rd 82 to Yakama Indian Reservation boundary (Section 16, T7N, R11E); S along the Yakama Indian Reservation boundary to the Reservation's SW corner at King Mountain (Section 27, T7N, R11E); E along the Yakama Indian Reservation boundary to the end of King Mountain Rd, about 1 mile; N along the Yakama Indian Reservation boundary to its corner in Section 2, T7N, R11E; E along the Yakama Indian Reservation boundary to the NE corner of Section 4, T7N, R12E; SE along the Yakama Indian Reservation boundary to the Klickitat River; S and SW down the Klickitat River to the Columbia River; W down the Columbia River to the mouth of the White Salmon River and the point of beginning (including all islands in the Columbia River which are both north of the Washington state line and between the Klickitat River and the White Salmon River).

AMENDATORY SECTION (Amending WSR 17-17-088, filed 8/17/17, effective 9/17/17)

WAC 220-412-070 Big game and wild turkey auction, raffle, and special incentive permits.

AUCTION PERMITS

(1) BLACK-TAILED DEER AUCTION PERMIT

- (a) Season dates: September 1 - December 31
- (b) Hunt Area: Those GMUs open to black-tailed deer hunting EXCEPT GMU 485 and those GMUs closed to black-tailed deer hunting by the fish and wildlife commission.

(c) Weapon type: Any legal weapon.

- (d) Bag limit: One additional any buck black-tailed deer.
- (e) Number of permit hunters selected: 1

(2) MULE DEER AUCTION PERMIT

- (a) Season dates: September 1 - December 31
- (b) Hunt Area: Those GMUs open to mule deer hunting EXCEPT those GMUs closed to mule deer hunting by the fish and wildlife commission.

(c) Weapon type: Any legal weapon.

- (d) Bag limit: One additional any buck mule deer.
- (e) Number of permit hunters selected: 1

(3) WHITE-TAILED DEER AUCTION PERMIT

- (a) Season dates: September 1 - December 31
- (b) Hunt Area: Those GMUs open to white-tailed deer hunting EXCEPT those GMUs closed to white-tailed deer hunting by the fish and wildlife commission.

(c) Weapon type: Any legal weapon.

- (d) Bag limit: One additional any buck white-tailed deer.
- (e) Number of permit hunters selected: 1

(4) THREE-DEER AUCTION PERMIT

- (a) Bag limit: One additional any buck black-tailed deer, one additional any buck mule deer, and one additional any buck white-tailed deer; total harvest not to exceed three animals.

(b) Hunt Area: For black-tailed deer, those GMUs open to black-tailed deer hunting EXCEPT GMU 485 and those GMUs closed to deer hunting by the fish and wildlife commission. For mule deer, those GMUs open to mule deer hunting EXCEPT those GMUs closed to mule deer hunting by the fish and wildlife commission. For white-tailed deer, those GMUs open to white-tailed deer hunting EXCEPT those GMUs closed to white-tailed deer hunting by the fish and wildlife commission.

(c) Season dates: September 1 - December 31

(d) Weapon: Any legal weapon.

(e) Number of permit hunters selected: 1

(5) WESTSIDE ELK AUCTION PERMIT

- (a) Season dates: September 1 - December 31

(b) Hunt Area: Western Washington EXCEPT GMU 485, those GMUs closed to elk hunting, and those GMUs not opened to bull elk hunting by the fish and wildlife commission.

(c) Weapon type: Any legal weapon.

(d) Bag limit: One additional any bull elk.

(e) Number of permit hunters selected: 1

(6) EASTSIDE ELK AUCTION PERMIT

- (a) Season dates: September 1 - December 31

(b) Hunt Area: Eastern Washington EXCEPT GMUs 157, 334, and those GMUs closed to elk hunting, and those GMUs not opened to bull elk hunting by the fish and wildlife commission.

(c) Weapon type: Any legal weapon.

(d) Bag limit: One additional any bull elk.

(e) Number of permit hunters selected: 1

(7) CALIFORNIA BIGHORN SHEEP AUCTION PERMIT

- (a) Season dates: September 1 - December 31

(b) Hunt Area: The director is authorized to select areas open for this hunt based on population objectives, harvest objectives, and recent harvest parameters as identified by the department. The selection of hunt areas will be made no later than December 1 for the following year, and will be posted on the department's web site no later than January 1.

(c) Weapon: Any legal weapon.

(d) Bag limit: One California bighorn ram.

(e) Number of permit hunters selected: 1

(8) MOOSE AUCTION PERMIT

- (a) Season dates: September 1 - December 31

(b) Hunt Area: Any open moose unit, and hunt areas identified by the department before December 1 for the following year, and posted on the department's web site no later than January 1.

(c) Weapon: Any legal weapon.

(d) Bag limit: One moose of either sex.

(e) Number of permit hunters selected: 1

(9) MOUNTAIN GOAT AUCTION PERMIT

(a) Season dates: September 1 - December 31

(b) Hunt Area: The director is authorized to select areas open for this hunt based on population objectives, harvest objectives, and recent harvest parameters as identified by the department. The selection of hunt areas will be made no later than December 1 for the following year, and will be posted on the department's web site no later than January 1.

(c) Weapon: Any legal weapon.

(d) Bag limit: One mountain goat of either sex.

(e) Number of permit hunters selected: 1

RAFFLE PERMITS

(10) BLACK-TAILED DEER RAFFLE PERMIT

(a) Season dates: September 1 - December 31

(b) Hunt Area: Those GMUs open to black-tailed deer hunting EXCEPT GMU 485 and those GMUs closed to deer hunting by the fish and wildlife commission.

(c) Weapon: Any legal weapon.

(d) Bag limit: One additional any buck black-tailed deer.

(e) Number of permit hunters selected: 1

(11) MULE DEER RAFFLE PERMIT

(a) Season dates: September 1 - December 31

(b) Hunt Area: Those GMUs open to mule deer hunting EXCEPT those GMUs closed to mule deer hunting by the fish and wildlife commission.

(c) Weapon: Any legal weapon.

(d) Bag limit: One additional any buck mule deer.

(e) Number of permit hunters selected: 1

(12) WHITE-TAILED DEER RAFFLE PERMIT

(a) Season dates: September 1 - December 31

(b) Hunt Area: Those GMUs open to white-tailed deer hunting EXCEPT those GMUs closed to white-tailed deer hunting by the fish and wildlife commission.

(c) Weapon: Any legal weapon.

(d) Bag limit: One additional any buck white-tailed deer.

(e) Number of permit hunters selected: 1

(13) WESTSIDE ELK RAFFLE PERMIT

(a) Season dates: September 1 - December 31

(b) Hunt Area: Western Washington EXCEPT GMU 485, those GMUs closed to elk hunting, and those GMUs not open to bull elk hunting by the fish and wildlife commission.

(c) Weapon: Any legal weapon.

(d) Bag limit: One additional any bull elk.

(e) Number of permit hunters selected: 1

(14) EASTSIDE ELK RAFFLE PERMIT

(a) Season dates: September 1 - December 31

(b) Hunt Area: Eastern Washington EXCEPT GMUs 157, 334, and those GMUs closed to elk hunting, and those GMUs not opened to bull elk hunting by the fish and wildlife commission.

(c) Weapon: Any legal weapon.

(d) Bag limit: One additional any bull elk.

(e) Number of permit hunters selected: 1

(15) CALIFORNIA BIGHORN SHEEP RAFFLE PERMIT

(a) Season dates: September 1 - December 31

(b) Hunt Area: The director is authorized to select areas open for this hunt based on population objectives, harvest objectives, and recent harvest parameters as identified by the department. The selection of hunt areas will be made no later than December 1 for the following year, and will be posted on the department's web site no later than January 1 except that sheep units in Walla Walla, Columbia, Garfield, Asotin, or Pend Oreille counties are not open.

(c) Weapon: Any legal weapon.

(d) Bag limit: One California bighorn ram.

(e) Number of permit hunters selected: 1

(16) MOOSE RAFFLE PERMIT

(a) Season dates: September 1 - December 31

(b) Hunt Area: ((Any open moose unit)) GMUs 101 through 121, 204.

(c) Weapon: Any legal weapon.

(d) Bag limit: One moose of either sex.

(e) Number of permit hunters selected: 2

(17) MOUNTAIN GOAT RAFFLE PERMIT

(a) Season dates: September 1 - December 31

(b) Hunt Area: The director is authorized to select areas open for this hunt based on population objectives, harvest objectives, and recent harvest parameters as identified by the department. The selection of hunt areas will be made no later than December 1 for the following year, and will be posted on the department's web site no later than January 1.

(c) Weapon: Any legal weapon.

(d) Bag limit: One mountain goat of either sex.

(e) Number of permit hunters selected: 1

(18) TURKEY RAFFLE PERMIT

(a) Season dates: April 1 - May 31 and September 1 - December 31

(b) Hunt Area: Statewide.

(c) Weapon: Archery or shotgun only.

(d) Bag limit: Three additional wild turkeys, but not to exceed more than one turkey in Western Washington or two turkeys in Eastern Washington.

(e) Number of permit hunters selected: 1

(19) ROCKY MOUNTAIN BIGHORN SHEEP RAFFLE PERMIT

(a) Bag limit: One Rocky Mountain bighorn ram.

(b) Hunt Area: GMUs 113, ((472)) 169.

(c) Season dates: September 1 - December 31

(d) Weapon: Any legal weapon.

(e) Number of permit hunters selected: 1

(20) THREE-DEER RAFFLE PERMIT

(a) Bag limit: One additional any buck black-tailed deer, one additional any buck mule deer, and one additional any buck white-tailed deer; total harvest not to exceed three animals.

(b) Hunt Area: For black-tailed deer, those GMUs open to black-tailed deer hunting EXCEPT GMU 485 and those GMUs closed to deer hunting by the fish and wildlife commission. For mule deer, those GMUs open to mule deer hunting EXCEPT those GMUs closed to mule deer hunting by the fish and wildlife commission. For white-tailed deer, those GMUs open to white-tailed deer hunting EXCEPT those GMUs closed to white-tailed deer hunting by the fish and wildlife commission.

(c) Season dates: September 1 - December 31

(d) Weapon: Any legal weapon.

(e) Number of permit hunters selected: 1

(21) NORTHEAST WASHINGTON BIG GAME RAFFLE PERMIT

(a) Bag limit: Permit hunter may harvest three of six possible species. Species that may be harvested under this permit include: One additional any buck white-tailed deer, one additional any bull elk, one any bull moose, one additional any legal cougar, one additional any legal black bear, and one additional any legal turkey (gobbler and turkey with visible beard ONLY); total harvest not to exceed three animals.

(b) Hunt Area: GMUs 101-124.

(c) Season dates:

(i) September 1 - December 31 for white-tailed deer, elk, and moose.

(ii) April 15 - May 31 and September 1 - December 31 for black bear.

(iii) September 1 - March 31 for cougar. April 15 - May 31 for turkey.

(d) Weapon: Any legal weapon EXCEPT archery and shotgun only for turkey.

(e) Number of permit hunters selected: 1

(22) SOUTH-CENTRAL WASHINGTON BIG GAME RAFFLE PERMIT

(a) Bag limit: One additional any bull elk, one additional any buck deer, and one California bighorn sheep ram; total harvest not to exceed three animals.

(b) Hunt Area: For elk, any 300 or 500 series GMU EXCEPT GMU 334 and those GMUs closed to elk hunting and those GMUs not open to bull elk hunting by the fish and wildlife commission. For deer, any 300 or 500 series GMU EXCEPT those GMUs closed to deer hunting by the fish and wildlife commission. For California bighorn sheep, the director is authorized to select areas open for this hunt based on population objectives, harvest objectives, and recent harvest parameters as identified by the department. The selection of hunt areas will be made no later than December 1 for the following year, and will be posted on the department's web site no later than January 1. ((For bighorn sheep, any bighorn herd located south of U.S. Highway 2 in Chelan County and west of the Columbia River in Kittitas and Yakima counties.))

(c) Season dates: September 1 - December 31

(d) Weapon: Any legal weapon.

(e) Number of permit hunters selected: 1

(23) SOUTHEAST WASHINGTON BIG GAME RAFFLE PERMIT

(a) Bag limit: Permit hunter may harvest four of five possible species. Species that may be harvested under this permit include: One additional any buck white-tailed deer, one additional any buck mule deer, one additional any bull elk, one additional any legal cougar, and one additional any legal black bear; total harvest not to exceed four animals.

(b) Hunt Area: GMUs 139-154 and 162-186.

(c) Season dates: September 1 - December 31 for white-tailed deer, mule deer, and elk. April 15 - June 15 and September 1 - December 31 for black bear. September 1 - March 31 for cougar

(d) Weapon: Any legal weapon.

(e) Number of permit hunters selected: 1

(24) NORTH-CENTRAL WASHINGTON BIG GAME RAFFLE PERMIT

(a) Bag limit: Permit hunter may harvest three of five possible species. Species that may be harvested under this

permit include: One additional any buck white-tailed deer, one additional any buck mule deer, one any ram California bighorn sheep, one additional any legal cougar, and one additional any legal black bear; total harvest not to exceed three animals.

(b) Hunt Area: For white-tailed deer, mule deer, cougar, and black bear, any 200 series GMU EXCEPT those GMUs closed to deer hunting by the fish and wildlife commission. For California bighorn sheep, the director is authorized to select areas open for this hunt based on population objectives, harvest objectives, and recent harvest parameters as identified by the department. The selection of hunt areas will be made no later than December 1 for the following year, and will be posted on the department's web site no later than January 1 ((in Okanogan or Chelan counties north of US Highway 2)).

(c) Season dates:

(i) September 1 - December 31 for white-tailed deer, mule deer, and California bighorn sheep.

(ii) April 15 - May 15 and September 1 - December 31 for black bear.

(iii) September 1 - March 31 for cougar.

(d) Weapon: Any legal weapon.

(e) Number of permit hunters selected: 1

SPECIAL INCENTIVE PERMITS

(25) WESTERN WASHINGTON ELK INCENTIVE PERMITS

(a) Hunt Area: Western Washington EXCEPT GMUs 418, 485, 522, and those GMUs closed to elk hunting or closed to bull elk hunting by the fish and wildlife commission.

(b) Season dates: September 1 - December 31

(c) Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

(d) Bag limit: One additional elk.

(e) Number of permit hunters selected: 2

(26) EASTERN WASHINGTON ELK INCENTIVE PERMITS

(a) Hunt Area: Eastern Washington EXCEPT GMUs 157, 334, and those GMUs closed to elk hunting or closed to bull elk hunting by the fish and wildlife commission.

(b) Season dates: September 1 - December 31

(c) Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

(d) Bag limit: One additional elk.

(e) Number of permit hunters selected: 2

(27) DEER INCENTIVE PERMITS

(a) Hunt Area: Statewide, for use in any area open to general or permit hunting seasons EXCEPT GMUs 157, 418, 485, 522, and those GMUs closed to deer hunting by the fish and wildlife commission.

(b) Season dates: September 1 - December 31

(c) Weapon: Any legal weapon, EXCEPT hunters must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons and any legal weapon at other times if there are no firearm restrictions.

(d) Bag limit: One additional any deer.

(e) Number of permit hunters selected: 5

PERMIT ISSUANCE PROCEDURE

(28) Auction permits: The director will select a conservation organization(s) to conduct annual auction(s). Selection of the conservation organizations will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey auctions shall be conducted consistent with WAC 220-412-060.

(29) Raffle permits: Raffle permits will be issued to individuals selected through a Washington department of fish and wildlife drawing or the director may select a conservation organization(s) to conduct annual raffles. Selection of a conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey raffles shall be conducted consistent with WAC 220-412-040.

(30) Special incentive permits: Hunters will be entered into a drawing for special deer and elk incentive permits for prompt reporting of hunting activity in compliance with WAC 220-413-100.

(31) For permit hunts where the permittee may harvest multiple species, the permittee must select the species he/she wants to hunt within fourteen days of notification of being selected.

QUALIFICATIONS FOR PARTICIPATION AND REQUIREMENTS:

(32) Permittees shall contact the appropriate regional office of the department of fish and wildlife when entering the designated hunt area or entering the region to hunt outside the general season.

(33) The permittee may be accompanied by others; however, only the permittee is allowed to carry a legal weapon or harvest an animal.

(34) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(35) If requested by the department, the permittee is required to direct department officials to the site of the kill.

(36) The permit is valid during the hunting season dates for the year issued.

(37) The permittee will present the head and carcass of the bighorn sheep killed to any department office within ((seventy two hours)) ten days of date of kill.

(38) The permittee must abide by all local, state, and federal regulations including firearm restriction areas and area closures.

(39) Hunters awarded the special incentive permit will be required to send the appropriate license fee to the department of fish and wildlife headquarters in Olympia. The department will issue the license and transport tag and send it to the special incentive permit winner.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-412-080 Special hunting season permits. The commission may establish special hunting seasons and may set the conditions for each category and hunt.

((+) (1) Deer, elk, cougar, or black bear special hunting season permit applications:

((A.)) (a) To apply for special hunting season permits for all categories of deer, elk, cougar, or black bear, applicants must have a valid Washington big game hunting license and a valid transport tag for the appropriate species. To apply for a particular hunt, each applicant for deer or elk must have the proper transport tag as identified in the special deer or elk permit regulations.

((B.)) (b) Multiple season deer and elk permit applications may be purchased without additional licenses or tags. Persons who are successfully drawn must purchase a multiple season permit for deer or elk and may also apply for archery, muzzleloader, or modern firearm special hunting season permits for the species drawn.

((2.)) (2) Mountain goat, moose, and bighorn sheep special hunting season permit applications:

((A.)) (a) Persons who have previously harvested a mountain goat, bighorn sheep ram, ((or bull moose)) an antlered bull moose taken under an "any antlered bull moose" permit, or any moose (whether antlered or not) taken under an "any moose" permit in Washington are ineligible for a special hunting season permit for that category. This lifetime harvest restriction does not apply to individuals who harvested a mountain goat before 1999, raffle or auction hunt authorizations, ewe-only bighorn sheep hunts, or antlerless-only moose hunts.

((B.)) (b) Applicants for all mountain goat, moose, and/or bighorn sheep special hunting season permits must have either successfully completed hunter education prior to submitting an application, or have a birth date prior to January 1, 1972.

((c)) Successful applicants under this section must purchase the appropriate hunting license by the deadline established by the department (a minimum of 15 days). Failure to purchase forfeits the permit to an alternate applicant.

((3.)) (3) Wild turkey special hunting season permit applications:

((A.)) (a) To apply for wild turkey special hunting season permits, each applicant must have a valid small game hunting license.

((B.)) (b) Fall wild turkey special hunting season permit holders must have a valid turkey transport tag in possession to hunt turkeys in fall special hunting seasons.

((4.)) (4) Special hunting season permit applications:

((A.)) (a) Maximum group sizes are determined for each category. If a group application is drawn, all hunters in the group will receive a special hunting season permit and each hunter in the group can take an animal. If the number of permits available in a hunt category is less than the maximum group size, then the maximum group size is equal to the number of permits.

((i.)) (i) Maximum group size for deer categories is 8.

((ii.)) (ii) Maximum group size for elk categories is 8.

((iii.)) (iii) Maximum group size for bear categories is 2.

((iv.)) (iv) Maximum group size for cougar categories is 2.

((v.)) (v) Maximum group size for mountain goat categories is 2.

((vi.)) (vi) Maximum group size for bighorn sheep categories is 2.

((vii.)) (vii) Maximum group size for fall turkey categories is 4.

((viii.)) (viii) Maximum group size for moose categories is 2.

((ix.)) (ix) Maximum group size for multiple season deer is 2.

((x.)) (x) Maximum group size for multiple season elk is 2.

((B.)) (b) An applicant may purchase only one application for a special hunting season permit for each category.

((C.)) (c) Permit applications will allow four choices for all categories except the quality category for deer and elk will allow two choices.

((D.)) (d) Permits will be drawn by computer selection using a weighted point selection system.

((E.)) (i) Applicants will receive one point for each application category purchased.

((H.)) (ii) Once drawn for a permit, the applicant's points will be reduced to zero in that category. Applicants who are drawn for a damage hunt administered by a WDFW designated hunt coordinator and not given a chance to participate shall get their points restored. Those that decline to participate for any reason are not eligible for point restoration.

((I.)) (iii) An applicant's accumulated point totals, immediately prior to sales of the 2010 permit applications, will be replicated across all categories for that species. The point replication will only occur in 2010, during the transition from single species categories to multiple categories of the same species. Applicants for any new category added in the future will begin with the point awarded at the time of the initial application purchase.

((E.)) (iv) Applicants for the "any antlered bull moose" category (established in 2018) will be credited with any points previously accumulated under the "any moose" category.

(e) Incomplete, ineligible, or inaccurate applications will not be accepted or entered into the drawing.

((F.)) (f) Permits will be voided if the applicant is found to be ineligible or to have provided an application based on inaccurate information.

((G.)) (g) The purchase of an application will result in one accrued point for the category purchased.

((H.)) (h) If an applicant makes a mistake, applies for the wrong hunt, and is successfully drawn, the special hunting season permit can be returned to the department of fish and wildlife Olympia headquarters before the opening day of the special hunting season. The applicant's points will be restored to the level prior to the permit drawing.

((I.)) (i) Anyone may apply for a special hunting season permit for deer, elk, bear, cougar, and wild turkey.

((S.)) (5) In addition to requirements for special hunting season permit applications, following are application requirements for:

((A.)) (a) Special hunting seasons for persons of disability: Only applicants with a Washington disabled hunter permit are eligible to apply for any special hunting season permits for persons of disability.

((B.)) (b) Special hunting seasons for youth: Only persons who are eligible to lawfully purchase a youth special

hunting application are eligible to apply for special hunting season permits for youth.

((C.)) (c) Special hunting seasons for hunters age 65 and older: Only applicants sixty-five years of age or older on or before March 31 of the current license year will be eligible to apply for special hunting season permits for hunters age 65 and older.

((D.)) (d) Special hunting seasons for master hunter program graduates: Only persons who hold a valid certificate from the Washington department of fish and wildlife's master hunter program are eligible to apply for special hunting season permits for master hunters.

((E.)) (6) Citizen reward for reporting violations - Bonus points: A person who provides information which contributes substantially to the arrest of another person for illegally hunting or killing big game or an endangered species as defined by Title 77 RCW is eligible to receive ten bonus points toward the special hunting permit drawing for one application category of deer or elk special hunting season permits.

((A.)) (a) Only ten bonus points can be awarded for providing information for each person charged regardless of the number of violations involved.

((B.)) (b) Selection of bonus points is in lieu of application for a cash award.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-412-100 Landowner hunting permits. (1) A landowner may enter into a contract with the department and establish boundaries and other requirements for hunter access consistent with commission policy.

(2) It is unlawful for hunters to participate in landowner-permit hunts unless the hunters possess both an access permit from the landowner and a hunting permit from the department for the species covered under the landowner's contract. A violation of this section is punishable under RCW 77.15.-410.

(3)(a) Buckrun

(i) Buckrun is located in Grant County, near the town of Wilson Creek.

(ii) Hunting on Buckrun is managed for a quality experience by scheduling hunt dates and keeping the number of hunters in the field low. Hunters with limited flexibility for hunt dates may experience scheduling problems. Hunters can generally expect one-day hunts during the permit seasons with written authorization from the Buckrun manager. All hunters must check in and out with the landowner or their designee on hunt day. Hunts are scheduled on a first-come basis by calling 509-345-2577 in advance.

(b) Buckrun landowner hunting permits

(i) Buckrun's manager will distribute Buckrun's landowner hunting permits. Buckrun may charge an access fee for these permits, but not for winning raffle permits. Only hunters possessing a modern firearm deer tag are eligible for permits on Buckrun's properties. Contact the manager at 509-345-2577 for additional information.

(ii) Deer Seasons:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Buckrun	10	Sept. 1 - Dec. 31	Antlerless Mule Deer or any White-tailed Deer	Buckrun
Buckrun	30	Sept. 1 - Dec. 31	Any deer	Buckrun
Buckrun Raffle	10	Oct. 25 - Dec. 31	Any deer	Buckrun

(c) Buckrun special hunting permits

(i) Hunters must apply to the Washington department of fish and wildlife for Buckrun's special hunting permits. Only hunters possessing a modern firearm deer tag are eligible for these special permits. All hunters must check in and out with the landowner or their designee. Hunts must be scheduled in advance by calling 509-345-2577.

(ii) Deer Seasons:

Hunt Name	Permit Number	Permit Season	Special Restrictions	Boundary Description
Buckrun	10	Sept. 1 - Dec. 31	Antlerless	Buckrun

(4)(a) Silver Dollar Association

The Silver Dollar Association is located in Yakima and Benton counties, on the western edge of the Hanford Reservation. A legal description of the property is in the contract between the Silver Dollar Association and the department.

(b) Silver Dollar Association landowner hunting permits

(i) The Silver Dollar Association's manager will distribute the association's landowner hunting permits. The association may charge an access fee for these permits.

(ii) Elk Seasons:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Silver Dollar	24	Aug. 1 - March 31	Any Elk	Silver Dollar
Silver Dollar	8	Aug. 1 - March 31	Antlerless	Silver Dollar

(c) Silver Dollar Association special hunting permits

(i) Hunters must apply to the department for the Silver Dollar Association's special hunting permits.

(ii) Elk Seasons:

Hunt Name	Permit Number	Weapon/Tag	Permit Season	Special Restrictions	Boundary Description
Silver Dollar	8	EF	Aug. 1 - March 31	Youth Only, Any Elk	Silver Dollar
Silver Dollar	6	EF	Aug. 1 - March 31	Youth Only, Antlerless Elk Only	Silver Dollar
Antlerless Elk					
Silver Dollar	2	EF	Aug. 1 - March 31	Persons of Disability Only, Antlerless Elk Only	Silver Dollar
Antlerless Elk					

(5)(a) Blackrock Ranches

Blackrock Ranches is located in Yakima County west of the Hanford Reservation. A legal description of the property is in the contract between Blackrock Ranches and the department.

(b) Blackrock Ranches landowner hunting permits

(i) Blackrock Ranches' manager will distribute the ranches' landowner hunting permits. Blackrock Ranches may charge an access fee for these permits.

(ii) Elk Seasons:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Blackrock Ranches	6	Aug. 1 - March 31	Any Elk	Blackrock Ranches

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Blackrock Ranches	2	Aug. 1 - March 31	Antlerless	Blackrock Ranches

(c) Blackrock Ranches special hunting permits

(i) Hunters must apply to the department for Blackrock Ranches' special hunting permits. To apply, hunters must have an eastside elk tag.

(ii) Elk Seasons:

Hunt Name	Permit Number	Weapon/Tag	Permit Season	Special Restrictions	Boundary Description
Blackrock Ranches	1	EF	Aug. 1 - March 31	Any Elk	Blackrock Ranches
Blackrock Ranches	1	EF	Aug. 1 - March 31	Antlerless Only	Blackrock Ranches
Blackrock Ranches	1	EF	Aug. 1 - March 31	Youth Only, Any Elk	Blackrock Ranches
Blackrock Ranches	1	EF	Aug. 1 - March 31	Youth Only, Antlerless Only	Blackrock Ranches

(6)(a) Pine Mountain Ranch

The Pine Mountain Ranch is located in Yakima County 14 miles west of Yakima. A legal description of the property is in the contract between the Pine Mountain Ranch and the department.

(b) Pine Mountain Ranch landowner hunting permits

(i) Pine Mountain Ranch's manager will distribute the ranch's landowner hunting permits. Pine Mountain Ranch may charge an access fee for these permits.

(ii) Deer Seasons:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Pine Mountain Ranch	3	Nov. 5 - Dec. 31	Any Buck	Pine Mountain Ranch

(iii) Elk Seasons:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Pine Mountain Ranch	1	Aug. 1 - Dec. 31	Any Bull	Pine Mountain Ranch
Pine Mountain Ranch	2	Aug. 1 - ((Nov. 5)) Dec. 1	Antlerless	Pine Mountain Ranch

(c) Pine Mountain Ranch special hunting permits

(i) Hunters must apply to the department for Pine Mountain Ranch's special hunting permits.

(ii) Deer Seasons:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Pine Mountain Ranch	3	Nov. ((6)) 5 - Dec. 31	Youth Only, Any Buck	Pine Mountain Ranch

(iii) Elk Seasons:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Pine Mountain Ranch	1	Aug. 1 - Dec. 31	Youth Only, Any Bull	Pine Mountain Ranch
Pine Mountain Ranch	2	Aug. 1 - ((Nov. 5)) Dec. 1	Antlerless	Pine Mountain Ranch

(7)(a) ((**Bennett Lumber LHP**

(i) The Bennett Lumber property is located in Asotin, Columbia, Garfield, and Walla Walla counties (GMUs 154, 162, 166, 172, and 178). A legal description of the property is in the contract between Bennett Lumber and the department.

(ii) Special hunting permits are not issued by the department for the Bennett Lumber LHP. Instead, Bennett Lumber will be enrolling in the hunt by reservation program to provide regulated public access to all of their property. The landowner and the department will develop a framework for scheduling reservation hunts on the property which will result in hunting opportunity exceeding that which otherwise would be available using the standard allocation guidelines for LHPs.

(b) **Bennett Lumber landowner hunting permits**

(i) Bennett Lumber's manager will distribute the ranch's landowner hunting permits. Bennett Lumber may charge an access fee for these permits. Holders of the 10 antlerless elk permits are eligible to purchase second elk tags that may only be used on lands included in the Bennett Lumber LHP.

(ii) **Deer Seasons:**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Bennett Lumber A	2	Nov. 14-28	Mule Deer, 3 pt. min	Bennett Lumber
Bennett Lumber B	4	Nov. 14-28	White-tailed, 3 pt. min	Bennett Lumber

(iii) **Elk Seasons:**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Bennett Lumber A	+	Sept. 15-30	Any Bull	Bennett Lumber
Bennett Lumber B	5	Sept. 15-30	Antlerless	Bennett Lumber
Bennett Lumber C	5	Nov. 14-28	Antlerless	Bennett Lumber

(8)(a) **ZMI Ranch**

ZMI Ranch is located in northern Walla Walla County near Lyons Ferry (GMU 149).

(b) **ZMI Ranch landowner hunting permits**

(i) ZMI Ranch's manager will distribute the ranch's landowner hunting permits. ZMI Ranch may charge an access fee for these permits.

(ii) **Deer Seasons:**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
ZMI A	3	Oct. 25-29	3 pt. min	ZMI
ZMI B	3	Nov. 14-30	3 pt. min	ZMI

(c) **ZMI Ranch special hunting permits**

(i) Hunters must apply to the department for ZMI Ranch's special hunting permits. Only hunters possessing a modern fire-arm deer tag are eligible for ZMI special permits. Hunters must contact ZMI Ranch's manager to schedule a hunt time. All hunters must check in and out with the landowner or their designee on the day they hunt.

(ii) **Deer Seasons:**

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
ZMI C	2	Nov. 1-5	3 pt. min	ZMI
ZMI D	6	Dec. 2-10	Antlerless	ZMI

(9)(a)) **Columbia Plateau Wildlife Management Association**

(i) The Columbia Plateau Wildlife Management Association (CPWMA) landowner hunting permit area is located in Spokane County (GMU 130) near Turnbull National Wildlife Refuge. A legal description of the property is in the contract between the CPWMA and the department.

(ii) Landowner permit hunts are primarily damage hunts but are managed for a quality experience by keeping the number of hunters in the field low.

(b) Columbia Plateau Wildlife Management Association landowner hunting permits

(i) CPWMA's manager will distribute the association's landowner hunting permits. CPWMA will not charge an access fee for raffle permit winners. Only hunters possessing an elk tag are eligible for permits on CPWMA's properties. All successfully drawn permit applicants must have written authorization from CPWMA's manager and must check in and out with CPWMA's designee at the beginning and ending of the scheduled hunting dates. Successful applicants will receive a packet of information with forms to complete and a map showing the hunt area. These applicants must complete the forms and return them before September 30. Applicants should see CPWMA's web site at www.cpwma.org or contact the hunt manager at 509-263-4616. Holders of landowner permits selected through raffle, including ((43)) 9 antlerless elk and 2 any elk permits, are eligible to purchase second elk tags that may only be used on lands included in the CPWMA LHP.

(ii) Elk Seasons:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
CPWMA	((2)) 1	Jan. 1 - Mar. 31	Antlerless	CPWMA
<u>CPWMA</u>	<u>1</u>	<u>Jan. 1 - Mar. 31</u>	<u>Any Bull</u>	<u>CPWMA</u>
CPWMA Raffle 1	((4)) 3	Jan. 1-31	Antlerless	CPWMA
CPWMA Raffle 2	((4)) 3	Feb. 1-28	Antlerless	CPWMA
CPWMA Raffle 3	((5)) 3	Mar. 1-31	Antlerless	CPWMA
CPWMA Raffle 4	2	((Jan. 1-31)) <u>Jan. 1 - Mar. 31</u>	Any ((elk)) <u>Bull</u>	CPWMA

(c) Columbia Plateau Wildlife Management Association special hunting permits

(i) Hunters must apply to the department for CPWMA's special hunting permits. All successfully drawn permit applicants must have written authorization from CPWMA's manager and must check in and out with CPWMA's designee at the beginning and ending of the scheduled hunting dates. Successful applicants will receive a packet of required information with forms to complete and a map showing the hunt area. These applicants must complete the forms and return them before September 30. Applicants should see CPWMA's web site at www.cpwma.org or contact the hunt manager at 509-263-4616.

(ii) Elk Seasons:

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
((CPWMA 1	5	<u>Jan. 1-31</u>	<u>Antlerless</u>	<u>CPWMA</u>
<u>CPWMA 2</u>	<u>5</u>	<u>Feb. 1-28</u>	<u>Antlerless</u>	<u>CPWMA</u>
<u>CPWMA 3</u>	<u>5</u>	<u>Mar. 1-31</u>	<u>Antlerless</u>	<u>CPWMA)</u>
CPWMA ((4)) 1	1	((Jan. 1-31)) <u>Jan. 1 - Mar. 31</u>	Any ((elk)) <u>Bull</u>	CPWMA

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-413-030 Importation and retention of dead nonresident wildlife. (1) It is unlawful:

(a) To import or possess dead wildlife, taken in another state or country, into Washington unless such wildlife was acquired lawfully. Proof of legal acquisition must be retained during the period of retention of the carcass or edible parts.

(b) For a person who imports a dead bighorn sheep, mountain goat, cougar or bear to fail to report such importation to the department in writing within ten days of the importation. The report must contain the name and address of the importer, the location where the dead wildlife is being stored, and general information describing where and how the wildlife was obtained.

(c) To import or possess deer, elk, or moose, or parts thereof, harvested in Pennsylvania, Texas, Missouri, Colorado, Wyoming, Utah, New Mexico, Wisconsin, Illinois, South Dakota, Nebraska, Kansas, New York, West Virginia, Virginia, North Dakota, Alberta, Maryland, Minnesota, Mon-

tana, Iowa, Arkansas, Michigan, and Saskatchewan, with the following exceptions:

(i) Meat that has been deboned in the state or province where it was harvested and is imported as boned-out meat;

(ii) Skulls and antlers, antlers attached to the skull plate, or upper canine teeth (buglers, whistlers, ivories) from which all soft tissue has been removed;

(iii) Hides or capes without heads attached;

(iv) Tissue imported for use by a diagnostic or research laboratory; and

(v) Finished taxidermy mounts.

(2) Violation of subsection (1) of this section is punishable under RCW 77.15.290 Unlawful transportation of fish or wildlife—Penalty.

(3) It is unlawful for an importer or receiver of deer or elk to fail to notify the department within twenty-four hours if a state or province alerts the importer or receiver that a harvested animal has tested positive for chronic wasting disease. Violation of this subsection is an infraction punishable under RCW 77.15.160 Infractions.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-413-070 Hunting with aid of aircraft, boats or other vehicles. (1) It is unlawful to use aircraft, including unmanned aircraft, to spot, locate or report the location of wildlife for the purpose of hunting; except as authorized by a permit issued by the director.

(2) It is unlawful to hunt wildlife from a vehicle, aircraft, including unmanned aircraft, except as authorized by a permit issued by the director, or from a boat propelled by motor unless the motor of such boat has been completely shut off and its progress has ceased.

(3) It is unlawful to use a vehicle, aircraft, unmanned aircraft, or motor-propelled boat for the purpose of pursuing, concentrating, or harassing any wild animal or wild bird.

(4) It is unlawful to hunt big game on the day one was airborne in an aircraft, except on a regularly scheduled commercial airline flight.

(5) It is unlawful to hunt game animals, game birds, or migratory birds on the day one has operated an unmanned aircraft.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-413-100 Mandatory report of hunting activity. (1) All hunters purchasing a hunting license must report their hunting activity for deer, elk, bear, or turkey.

(a) Hunters must report hunting activity, for each tag and permit acquired, by January 31 or within 10 days after the close of an eligible hunt, whichever date is later.

(b) Reports must be made using the department's designated automated telephone hunter reporting system (toll free) or internet hunter reporting system.

(c) A hunter who fails to report hunting activity, for each tag and permit acquired, by the reporting deadline is in violation of reporting requirements.

(d) Compliance will be credited for each transport tag and permit acquired.

(2) As an incentive for prompt reporting, all hunters who report by midnight January 10 or within 10 days after the last day of their permit hunt will be entered into a drawing for special deer and elk incentive permits. To be eligible for the drawing, hunters must report their hunting activity for each transport tag and permit acquired.

(3) A hunter who fails to report hunting activity by the reporting deadline for deer, elk, bear, or turkey tags and permits acquired the previous year will be required to pay a \$10 administrative fee at the time a new license that includes deer, elk, bear, or turkey tags is issued.

(4) All hunters who purchase a migratory bird authorization must report their hunting activity for each harvest record card issued.

(a) Hunters must report harvest information from band-tailed pigeon harvest record cards by September 30 following the season for which the harvest card was issued. Hunters must report harvest information from brant, sea duck, ((and)) snow goose, and SW Canada goose (Goose Management Area 2 Coast and Inland) harvest record cards by ((February

+5)) March 20 following the season for which the harvest card was issued.

(b) Hunters must report migratory bird hunting activity ((by mailing all harvest record cards to the department at: 600 Capitol Way N, Olympia, WA 98501, or by reporting harvest information)) at the department's designated internet site listed on the harvest record card, or by mailing all harvest record cards to the department at: P.O. Box 43141, Olympia, WA 98504.

(c) Any hunter who fails to report, for each harvest record card acquired, by the reporting deadlines is in violation of reporting requirements.

(d) Compliance will be credited for each harvest record card acquired.

(5) A hunter who fails to report hunting activity by the reporting deadlines for band-tailed pigeon, brant, sea duck, ((or)) snow goose, or SW Canada goose harvest record card acquired in the previous hunting season must pay a ten-dollar administrative fee at the time a new migratory bird authorization and harvest record card is issued.

(6) A hunter may only be required to pay a maximum of one ten-dollar administrative fee for all game species reporting violations during a license year.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-413-180 Special closures and firearm restriction areas. (1) RESTRICTED HUNTING AREAS.

It is unlawful to hunt in the following restricted hunting areas unless otherwise provided:

(a) Parker Lake (GMU 117, Pend Oreille County): All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389), and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to hunting wild animals and wild birds year-round except for special hunts adopted by the fish and wildlife commission. The Parker Lake closure provides a protected area for the U.S. Air Force Military Survival Training Program.

(b) Columbia River: The Columbia River, all islands except privately owned, in the river, the Benton County shoreline below the high water mark, Central Hanford Department of Energy property, and any peninsula originating on the Benton County shoreline, between Vernita Bridge on Highway 24 downstream to the Richland city limits are designated as a "CLOSED AREA" to hunting wild animals and wild birds except waterfowl hunting is open below the high water mark between the old Hanford townsite power line crossing (wooden towers) in Section 24, T 13 N, R 27 E, and the Richland city limits.

(c) Green River (GMU 485): Except for special permit hunters, who may also take a black bear and/or cougar with the appropriate license/tag options, all lands within GMU 485 are designated as a "CLOSED AREA" to hunting big game year-round. During the general westside elk season and general and late deer seasons, all lands within GMU 485 year-round are also designated as a "CLOSED AREA" to hunting all wild animals, including wild birds, year-round. The city of

Tacoma enforces trespass within GMU 485 year-round on lands owned or controlled by the city.

(d) McNeil Island (part of GMU 652): Closed to hunting all wild animals, including wild birds, year-round.

(e) Loo-wit (GMU 522): Closed to hunting and trapping, except for elk and mountain goat hunting by special permit holders during established seasons and in designated areas.

(2) A violation of subsection (1) of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

(3) CLOSED BIG GAME HUNTING AREAS.

It is unlawful to hunt big game in the following closed areas, unless otherwise specified:

(a) Clark, Cowlitz, Pacific, and Wahkiakum counties: Closed to hunting for Columbian whitetail deer.

(b) Cathlamet: Except for special permits issued by the department for nonendangered deer and elk, this area is closed to all deer and elk hunting to protect the Columbian whitetail deer. This area's boundaries are described as:

Beginning in the town of Skamokawa; then east along SR 4 to Risk Road; then south and east along Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning.

(c) Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to hunting all wild animals, including wild birds. The only exception is for deer or elk hunting by holders of GMU-157 special deer or elk permits during the established open season. These permit holders must have a U.S. Forest Service permit to enter the hunt area, and the area is closed to motorized vehicles. No entry into the Mill Creek Watershed is allowed at other times.

(d) Westport: Closed to hunting all big game animals on the part of Westport Peninsula lying north of State Highway 105 from the Elk River Bridge west end and the Schafer Island Road to the ocean beach.

(e) Cottonwood and Howard islands (GMU 564): Closed to all deer hunting.

(4) A violation of subsection (3) of this section is a gross misdemeanor or a class C felony punishable under RCW 77.15.410, depending on the circumstances of the violation.

(5) FIREARM RESTRICTION AREAS.

(a) It is unlawful to hunt wildlife in the following firearm restriction areas with centerfire or rimfire rifles, or to fail to comply with additional firearm restrictions, except as established below:

COUNTY	AREA
Chelan	That portion of GMU 251 (Mission) beginning at the intersection of the Duncan Road and Highway 2; south on Duncan Road to Mountain Home Road; south along Mountain Home Road to the Icicle Irrigation Ditch; south and west along the Icicle Irrigation Ditch to the Snow Lake Trail; west and north along the Snow Lake Trail and across the Icicle River to Icicle River Road; east and north along Icicle River Road to the Wenatchee River; northwest along the Wenatchee River to Highway 2; north and east on Highway 2 to Duncan Road and the point of beginning.
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.
Clark	GMU 564 (Battle Ground).
Cowlitz	GMU 554 (Yale). GMU 504 (Stella).
Grays Harbor	That portion of GMU 564 (Battle Ground) in Cowlitz County. The following restriction applies only during modern firearm deer and elk seasons: That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Cranberry Road; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning.
Grays Harbor	The following restriction applies only during modern firearm elk seasons: That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to State Street in Oakville; south on State Street to its merge with Oakville Road; west on Oakville Road to its merge with South Bank Road; northwest along

COUNTY	AREA	COUNTY	AREA
Island	South Bank Road to Wakefield Road; north on Wakefield Road to the Chehalis River; west along the Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 to the point of beginning.		dridge Road to 95th Street; west on 95th Street to Tarlatt Slough; out Tarlatt Slough to Willapa Bay, north along the shoreline of Willapa Bay, then west to the Pacific Ocean. South along the west coast of the peninsula to Cape Disappointment State Park; east along state park boundary to Baker Bay; east along Baker Bay to the point of beginning.
Jefferson	GMUs 421 (Camano) and 420 (Whidbey).		The portion of GMU 658 (North River) south and west of State Highway 105 and Airport Road between Raymond and North River Bridge.
King	Indian and Marrowstone islands.		GMU 681 (Chinook Valley) beginning at confluence of Wallacut River, east along the Columbia River to the Astoria-Megler bridge; west along U.S. Highway 101 to Houtchen Road, north on Houtchen Road to the Chinook River; west on the Chinook River to the Chinook Valley Road; west on the Chinook Valley Road to Highway 101 and Wallacut River bridge; southwest on Wallacut River to point of beginning.
<u>King</u>	This area is restricted to archery only <u>during general season hunts (agency directed damage permit hunts exempt)</u> : The following portion of GMU 652 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning.	Pierce	((GMU 652-))Ketron Island((+)) in <u>GMU 652 limited to archery, shotgun, and muzzleloader.</u>
Kitsap	East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newbury Hill Road, north of Newbury Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.		GMU 655 (Anderson) limited to archery, shotgun, and muzzleloader. McNeil Island closed to hunting.
Kittitas	GMU 334 (Ellensburg) Closed to centerfire rifles during deer and elk seasons except for those areas designated in writing by WDFW wildlife conflict staff.		See GMU 652 restriction area outlined for King County.
Klickitat	Elk Area 5062 (Trout Lake) closed to centerfire rifles, handguns, and muzzleloaders October 1 to January 30.		GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.
Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstine Island.	San Juan	All San Juan County, including GMUs 411 (Orcas), 412 (Shaw), 413 (San Juan), 414 (Lopez), 415 (Blakely), 416 (Decatur), and those portions of GMU 410 (Islands) that occur in San Juan County.
Pacific	GMU 684 (Long Beach) the following Long Beach Peninsula restriction applies only during modern firearm deer and elk seasons: Beginning at the end of Outer Harbor Way in the City of Ilwaco to U.S. Highway 101, west and north on Highway 101 to Sandridge Road; north on San-	Snohomish	All areas west of Highway 9, until the intersection of Highway 9 and Highway 2, then east along Highway 2 to Highway 203, then all areas west of Highway 203 to the Snohomish/King County line.
		Skagit	All mainland areas and islands, including GMU 419 (Guemes), in Skagit County west of I-5 and north of the Skagit/Snohomish County line, except Cypress Island. This restriction applies to big game hunting only.

COUNTY	AREA
Skamania	That portion of GMU 564 (Battle Ground) in Skamania County.
Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.
Whatcom	All mainland areas and islands of Whatcom County that are west of I-5. This restriction applies to big game hunting only.

(b) Archery tag holders may only hunt during established archery seasons with archery equipment as defined under WAC 220-414-070.

(c) Muzzleloader tag holders may only hunt during established muzzleloader seasons with muzzleloader equipment or archery equipment as defined by department rule.

(d) Modern firearm tag holders may hunt during established modern firearm seasons with bows and arrows; crossbows; muzzleloaders; revolver-type handguns; semiautomatic handguns of .40 (10 mm) caliber or larger; or shotguns, so long as the equipment and ammunition complies with department rules.

(6) A violation of subsection (5) of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-414-060 Muzzleloading firearms. (1) Definitions.

(a) Muzzleloader: A firearm that is loaded from the muzzle and uses black powder or a black powder substitute as recommended by the manufacturer for use in all muzzleloading firearms.

(b) A muzzleloading firearm shall be considered loaded if a powder charge and a projectile, either shot or single projectile are in the barrel and the barrel or breech is capped or primed.

(2) It is unlawful to hunt wildlife using a muzzleloading firearm that does not meet the following specifications:

(a) A muzzleloading shotgun or rifle must have a single or double barrel, rifled or smooth-bored.

(b) A muzzleloading shotgun or rifle used for deer must be .40 caliber or larger. Buckshot size #1 or larger may be used in a smoothbore of .60 caliber or larger for deer.

(c) A muzzleloading shotgun, rifle, or handgun used for all other big game must be .45 caliber or larger.

(d) Persons lawfully hunting small game with a double barrel, muzzleloading shotgun may keep both barrels loaded.

(e) A muzzleloading handgun must have a single or double barrel of at least eight inches, must be rifled, and must be capable of being loaded with forty-five grains or more of black powder or black powder substitute per the manufacturer's recommendations.

(f) A muzzleloading handgun used for big game must be .45 caliber or larger.

(g) A handgun designed to be used with black powder, including black powder percussion revolvers, can be used to hunt forest grouse, cottontail rabbits, and snowshoe hares.

(3) In addition to the above requirements, it is unlawful to participate (hunt) in a muzzleloading hunting season using a firearm that does not meet the following specifications for a muzzleloader. However, a modern handgun may be carried for personal protection. Modern handguns cannot be used to hunt big game or dispatch wounded big game during a big game hunting season for muzzleloading firearms.

(a) Ignition is to be wheel lock, matchlock, flintlock, or percussion ((using original style percussion caps that fit on the nipple and are exposed to the weather. "Exposed to the weather" means the percussion cap or the frizzen must be visible and not capable of being enclosed by an integral part of the weapon proper)). Primers designed to be used in modern cartridges are ((not)) legal.

(b) Sights must be open, peep, or of other open sight design. Fiber optic sights are legal. Telescopic sights or sights containing glass are prohibited.

(c) It is unlawful to have any electrical device or equipment attached to a muzzleloading firearm while hunting.

(d) Those persons lawfully hunting big game with a double barrel muzzleloader may only keep one barrel loaded.

(4) Muzzleloading firearms used during a modern firearm season are not required to meet ignition, sight, or double barrel restrictions.

(5) A violation of this section is punishable under RCW 77.15.400, 77.15.410, or 77.15.430, depending on the species hunted.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-414-080 Hunting—Hunter orange clothing requirements. (1) Except as authorized in subsection (6) of this section, it is unlawful to hunt upland birds or rabbits during any upland game bird season unless the hunter is wearing fluorescent hunter orange clothing.

(2) It is unlawful to hunt deer or elk during all modern firearm general seasons in any manner unless the hunter is wearing fluorescent hunter orange clothing.

(3) All modern firearm permit holders must wear fluorescent hunter orange clothing.

(4) All master hunters must wear fluorescent hunter orange clothing during all deer and elk hunting seasons that allow the use of modern firearms, except as authorized by department permit.

(5) It is unlawful to hunt bear, cougar, bobcat, raccoon, fox, coyote, rabbit, forest grouse, turkey or hare during those times and in those places open to the taking of deer or elk during a modern firearm season, unless the hunter is wearing fluorescent hunter orange clothing.

(6) Persons who are hunting upland game birds during an upland game bird season with a muzzleloading firearm, bow and arrow or falconry are not required to wear fluorescent hunter orange clothing.

(7) Wearing fluorescent hunter orange clothing means: A minimum of 400 square inches of fluorescent hunter

orange exterior clothing, worn above the waist and visible from all sides.

(8) A violation of this section is an infraction, punishable under RCW 77.15.160.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-415-010 Deer area descriptions. The following areas are defined as deer areas:

Deer Area No. 1008 West Wenaha (Columbia County): That part of GMU 169 west of USFS trail 3112 from Tepee Camp (east fork of Butte Creek) to Butte Creek, and west of Butte Creek to the Washington-Oregon state line.

Deer Area No. 1009 East Wenaha (Columbia, Garfield, Asotin counties): That portion of GMU 169 east of USFS trail 3112 from Tepee Camp (east fork Butte Creek) to Butte Creek, and east of Butte Creek to the Washington-Oregon state line.

Deer Area No. 1010 (Columbia County): GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

Deer Area No. 1021 Clarkston (Asotin County): That portion of GMU 178 beginning at the junction of the Highway 12 bridge and Alpowa Creek; east on Highway 12 to Silcott Road; south and east on Silcott Road to Highway 128; southwest on Highway 128 to McGuire Gulch Road; southeast along the bottom of McGuire Gulch to Asotin Creek; east on Asotin Creek to the Snake River; north and west on the Snake River to Alpowa Creek; southwest of Alpowa Creek to the Highway 12 bridge and the point of beginning.

((Deer Area No. 1030 Republic (Ferry County): That area within 1/2 mile surrounding the incorporated town of Republic.))

Deer Area No. 1031 Parker Lake (Pend Oreille County): That area within GMU 117 south of Ruby Creek Rd (USFS Road 2489), north of Tacoma Creek Rd (USFS Road 2389), and west of Bonneville Power Administration power lines. The Parker Lake Deer Area is a protected area for the U.S. Air Force Military Survival Training Program that allows some limited access for special permit hunting.

Deer Area No. 1035 Highway 395 Corridor (Stevens County): That portion of GMU 121 beginning at the intersection of US Highway (Hwy) 395 (State Route 20) and State Route (SR) 25: S on SR 25 to Old Kettle Rd; E on Old Kettle Rd to Mingo Mountain Rd; S on Mingo Mountain Rd to Greenwood Loop Rd; E on Greenwood Loop Rd to the bridge over the Colville River; S on the Colville River to the bridge over Gold Creek Loop/Valley Westside Rd; W and S on Valley Westside Rd to the Orin-Rice Rd; E on Orin-Rice Rd to Haller Creek Rd; S on Haller Creek Rd to Skidmore Rd; E and S on Skidmore Rd to Arden Hill Rd; E on Arden Hill Rd to Townsend-Sackman Rd; S on Townsend-Sackman Rd to Twelve Mile Rd; S on Twelve Mile Rd to Marble Valley Basin Rd; S on Marble Valley Basin Rd to Zimmer Rd; S on Zimmer Rd to Blue Creek West Rd; E on Blue Creek West Rd to Dry Creek Rd; S on Dry Creek Rd to Duncan Rd; E on

Duncan Rd to Tetro Rd; S on Tetro Rd to Heine Rd; E and S on Heine Rd to Farm-to-Market Rd; S on Farm-to-Market Rd to Newton Rd (also known as Rickers Lane); E on Newton Rd to US Hwy 395; N on US Hwy 395 to McLean Rd and Twelve Mile Rd (also known as Old Arden Hwy); N on McLean Rd and Twelve Mile Rd to US Hwy 395; N on US Hwy 395 to Old Arden Hwy (again); N on Old Arden Hwy to US Hwy 395; N on US Hwy 395, through the town of Colville, then W on US Hwy 395 (SR 20) to SR 25 and the point of beginning.

Deer Area No. 1040 (Asotin County): That area within GMU 172 designated as the WDFW owned lands managed as the 4-O Ranch Wildlife Area.

((Deer Area No. 1050 Spokane North (Spokane County): From the intersection of the Spokane River and the Idaho-Washington state line, N to Hauser Lake Rd, W to Starr Rd, S to Newman Lake Dr, W and N to Foothills Rd, W to Forker Rd, N and W to Hwy 206 (Mt Spokane Park Rd), N to Feehan Rd, N to Randall Rd, W to Day Mt Spokane Rd, N to Big Meadows Rd, W to Madison Rd, N to Tallman Rd, W to Elk-Chattaroy Rd, N to Laurel Rd, E to Conklin Rd, N to Nelson Rd, E to Jackson Rd, N to Oregon Rd, E to Jefferson Rd, N to Fridgeger Rd, W to Elk-Camden Rd, S to Boundary Rd, N and W to Dunn Rd, S to Oregon Rd, W to Hwy 2, S on US Hwy 2 to the Deer Park-Milan Rd, W on the Deer Park-Milan Rd to US Hwy 395 at the town of Deer Park, NW on US Hwy 395 and W onto Williams Valley Rd, W and S to Hattery Rd (Owens Rd), S and E to Swenson Rd, S to Hwy 291, west to Stone Lodge Rd, west to the Spokane River, E on the Spokane River to the Idaho state border and the point of beginning.

Deer Area No. 1060 Spokane South (Spokane County): That part of GMU 127 beginning at the intersection of Spokane River and Barker Rd Bridge, Barker Rd S to 24 Ave, 24 Ave W to Barker Rd, Barker Rd S to 32 Ave, 32 Ave W to Linke Rd, Linke Rd S and E to Chapman Rd, Chapman Rd S to Linke Rd, Linke Rd S to Belmont Rd, Belmont Rd W to Jackson Rd, Jackson Rd S to Hwy 27 S to Elder Rd, Elder Rd W to Valley Chapel Rd, Valley Chapel Rd S to Spangle Creek Rd, Spangle Creek Rd SW to Hwy 195, Hwy 195 N to I-90, I-90 E to Latah Creek at I-90-Latah Creek Bridge, Latah Creek NE to Spokane River, Spokane River E to the Barker Rd Bridge and the point of beginning.

Deer Area No. 1070 Spokane West (Spokane County): That part of GMU 130 beginning at the intersection of I-90 and Latah Creek at I-90-Latah Creek Bridge, NE to Hwy 195 S on Hwy 195 S to Paradise Rd, Paradise Rd W to Smythe Road, Smythe Road NW to Anderson Rd, Anderson Rd W to Cheney Spokane Rd, Cheney Spokane Rd SW to Hwy 904/1st St in the town of Cheney, 1st SW to Salhave Rd/Hwy 902, Salhave Rd NW to Malloy Prairie Rd, Malloy Prairie Rd W to Medical Lake Tyler Rd, Medical Lake Tyler Rd N to Gray Rd, Gray Rd W then N to Fancher Rd, Fancher Rd NW to Ladd Rd, Ladd Rd N to Chase Rd, Chase Rd E to Espanola Rd, Espanola Rd N turns into Wood Rd, Wood Rd N to Coulee Hite Rd, Coulee Hite Rd E to Seven Mile Rd, Seven Mile Rd E to Spokane River, Spokane River S to Latah Creek,

~~Latah Creek S to I-90 at the Latah Creek Bridge and the point of beginning.~~

Deer Area No. 1080 Colfax (Whitman County): That part of GMUs 139 and 142 beginning at the intersection of Hwy 195 and Crumbaker Rd, NE on Crumbaker Rd to Brose Rd, E on Brose Rd to Glenwood Rd, S on Glenwood Rd to Hwy 272, SE on Hwy 272 to Clear Creek Rd, SE on Clear Creek Rd to Stueckle Rd, S on Stueckle Rd to Palouse River Rd, E to Kenoyier Rd SE to Abbott Rd, S on Abbott Rd to Parvin Rd, S on Parvin Rd to McIntosh Rd, S on McIntosh Rd to 4 mile Rd/Shawnee Rd, W on Shawnee Rd to Hwy 195, N on Hwy 195 to Prune Orchard Rd, W on Prune Orchard Rd to Almota Rd, S on Almota Rd to Duncan Springs Rd, W and NW on Duncan Springs Rd to Airport Rd, NW on Airport Rd to Fairgrounds Rd, N on Fairgrounds Rd to Endicott Rd, NNW on Endicott Rd to Morley Rd, E and S and E on Morley Rd to Hwy 295 (26), NE on Hwy 295 to West River Dr then follow Railroad Tracks NW to Manning Rd, E on Manning Rd to Green Hollow Rd, E and S on Green Hollow Rd to Bill Wilson Rd, E on Bill Wilson Rd to Hwy 195, S on Hwy 195 to Crumbaker Rd and the point of beginning.)

Deer Area No. 2010 Benge (Adams and Whitman counties): That part of GMU 284 beginning at the town of Wash-tucna; north on SR 261 to Weber Road; east on Weber Road to Benzel Road; north on Benzel Road to Wellsandt Road; east on Wellsandt Road to Hills Road; south on Hills Road to Urquhart Road; east on Urquhart Road to Harder Road, East on Harder Road to McCall Road; east on McCall Road to Gering Road; east on Gering Road to Lakin Road; east on Lakin Road to Revere Road; south on Revere Road to George Knott Road; south on George Knott Road to Rock Creek; south along Rock Creek to the Palouse River; south and west along the Palouse River to SR 26; west on SR 26 to Wash-tucna and the point of beginning.

Deer Area No. 2011 Lakeview (Grant County): That part of GMU 272 beginning at the junction of SR 28 and First Avenue in Ephrata; west on First Avenue to Sagebrush Flats Road; west on Sagebrush Flats Road to Norton Canyon Road; north on Norton Canyon Road to E Road NW; north on E Road NW to the Grant-Douglas county line; east along the county line to the point where the county line turns north; from this point continue due east to SR 17; south on SR 17 to SR 28 at Soap Lake; south on SR 28 to the junction with First Avenue in Ephrata and the point of beginning.

Deer Area No. 2012 Methow Valley (Okanogan County): All private land in the Methow Watershed located outside the external boundary of the Okanogan National Forest and north of the following boundary: Starting where the Libby Creek Road (County road 1049) intersects the Okanogan National Forest boundary; east on road 1049 to State Hwy 153; north on Hwy 153 to the Old Carlton Road; east on the Old Carlton Road to the Texas Creek Road (County road 1543); east on the Texas Creek Road to the Vintin Road (County road 1552); northeast on the Vintin Road to the Okanogan National Forest boundary.

Deer Area No. 2013 North Okanogan (Okanogan County): Restricted to private land only located within the

following boundary: Beginning in Tonasket at the junction of Havillah Rd and Hwy 97; NE on Havillah Rd to Dry Gulch Extension Rd; N to Dry Gulch Rd; N on Dry Gulch Rd to Oroville-Chesaw Rd; W on Oroville-Chesaw Rd to Molson Rd; N on Molson Rd to Nine Mile Rd; N and W on Nine Mile Rd to the Canadian border at the old Sidley Town Site; W along the border to the east shore of Lake Osoyoos; S around Lake Osoyoos to the Okanogan River; S along the east bank of the Okanogan River to the Tonasket Fourth Street Bridge; E on Fourth Street to Hwy 97; N on Hwy 97 to point of beginning.

Deer Area No. 2014 Central Okanogan (Okanogan County): Restricted to private land only located within the following boundary: Beginning in Tonasket on the Okanogan River at the Fourth Street Bridge; S along Hwy 7 to Pine Creek Rd; W along Pine Creek Rd to Horse Spring Coulee Rd; W and N on Horse Spring Coulee Rd to Beeman Rd; W on Beeman Rd to North Lemanasky Rd; S along North Lemanasky Rd to Pine Creek Rd; S on Pine Creek Rd to Hagood Cut-off Rd; S on Hagood Cut-off Rd to South Pine Creek Rd; E on South Pine Creek Rd to Hwy 97; S on Hwy 97 to Town of Riverside North Main Street junction; SE on North Main Street to Tunk Valley Rd and the Okanogan River Bridge; E on Tunk Creek Rd to Chewiliken Valley Rd; NE along Chewiliken Valley Rd to Talkire Lake Rd; N on Talkire Lake Rd to Hwy 20; W on Hwy 20 to the junction of Hwy 20 and Hwy 97; N on Hwy 97 to Fourth Street; W on Fourth Street to point of beginning.

Deer Area No. 2015 Omak (Okanogan County): Restricted to private land only located within the following boundary: Beginning at Hwy 97 and Riverside Cut-off road; west on Riverside Cut-off Rd to Conconully Road; south on Conconully Rd to Danner Cut-off road; west on Danner Cut-off road to Salmon Creek Rd; north on Salmon Creek Rd to Spring Coulee Rd; south on Spring Coulee Rd to B&O Road North Rd; southwest on B&O North Rd to Hwy 20; east on Hwy 20 to B&O Rd; south on B&O Rd to the Town of Malott and the bridge over the Okanogan River; north along the west bank of the Okanogan River to the Town of Riverside and the Tunk Valley road bridge; west on Tunk Valley road to State Street in Riverside; south on State Street to 2nd Street; west on 2nd Street to Hwy 97 and the point of beginning.

Deer Area No. 2016 Conconully (Okanogan County): Restricted to private land only located within the following boundary: Beginning at the Conconully town limit at the south edge of Town and the east shore of Conconully Reservoir; south along the east shore of the reservoir to Salmon Creek; south along the east bank of Salmon Creek to Salmon Creek road at the old Ruby Town site; south on Salmon Creek road to Green Lake road; northeast on Green Lake road to Conconully road; north on Conconully road to the south limit of the Town of Conconully and the point of beginning.

Deer Area No. 2017 Lake Chelan North (Chelan County): Restricted to private land only located within the following boundary: Beginning at the confluence of Purtteman Creek (Purtteman Gulch) and Lake Chelan; NE along Purtteman Creek to Boyd Road; E on Boyd Road to Purtteman Creek Road; N on Purtteman Creek Road to the USFS boundary; W

along the USFS boundary to Canyon Ranch Road (Joe Creek); SE on Canyon Ranch Road to Grade Creek Road; SE on Grade Creek Road to Lower Joe Creek Road; SE on Lower Joe Creek Road to Emerson Acres Road; west on Emerson Acres Road to Lake Chelan; S along the north shore of Lake Chelan to the point of beginning.

Deer Area No. 3071 Whitcomb (Benton County): That part of GMU 373 made up by the Whitcomb Unit of the Umatilla National Wildlife Refuge.

Deer Area No. 3072 Paterson (Benton County): That part of GMU 373 made up by the Paterson Unit of the Umatilla National Wildlife Refuge.

Deer Area No. 3088 High Prairie (Klickitat County): That portion of GMU 388 (Grayback) that is south of SR 142.

Deer Area No. 3334 Ellensburg (Kittitas County): Beginning at the confluence of the Yakima River and Wilson Creek, north up Wilson Creek to the John Wayne Pioneer Trail, west and north on the John Wayne Pioneer Trail to State Hwy 10, north and west on State Hwy 10 to the Thorp Highway, south and east on the Thorp Highway to the Yakima River (Thorp Highway Bridge), south and upstream on the Yakima River to the confluence of Taneum Creek and the Yakima River, south and west up Taneum Creek to the South Branch Canal, south and east on the South Branch Canal and South Branch Extension Canal to Umtanum Road, north on Umtanum Road to Lower Riverbottom Road, east and south on Lower Riverbottom Road to the Fogarty Ditch, south and east on the Fogarty Ditch to the Yakima River, south and east along the Yakima River to Wilson Creek and the point of beginning.

Deer Area No. 3372 Sunnyside (Yakima County): Beginning in Union Gap where I-82 crosses the Yakima River, follow I-82 east to the Yakima River Bridge in Prosser. Upstream on the Yakima River to the point of beginning. The islands in the Yakima River are on the Yakama Indian Reservation and are not part of the deer area.

Deer Area No. 3682 Ahtanum (Yakima County): That part of GMU 368 beginning at the power line crossing on Ahtanum Creek in T12N, R16E, Section 15; west up Ahtanum Creek to South Fork Ahtanum Creek; southwest up South Fork Ahtanum Creek to its junction with Reservation Creek; southwest up Reservation Creek and the Yakama Indian Reservation boundary to the main divide between the Diamond Fork drainage and Ahtanum Creek drainage; north along the crest of the main divide between the Diamond Fork drainage and the Ahtanum Creek drainage to Darland Mountain; northeast on US Forest Service Trail 615 to US Forest Service Road 1020; northeast on US Forest Service Road 1020 to US Forest Service Road 613; northeast on US Forest Service Road 613 to US Forest Service Trail 1127; northeast on US Forest Service Trail 1127 to US Forest Service Road 1302 (Jump Off Road), southeast of the Jump Off Lookout Station; northeast on US Forest Service Road 1302 (Jump Off Road) to Hwy 12. Northeast on Hwy 12 to the Naches River. Southeast down the Naches River to Cowiche Creek. West up Cowiche Creek and the South Fork Cowiche Creek to Summitview Ave. Northwest on Summitview Ave to

Cowiche Mill Road. West on Cowiche Mill Road to the power line in the northeast corner of T13N, R15E, SEC 13. Southeast along the power line to Ahtanum Creek and the point of beginning.

((Deer Area No. 3372 Sunnyside (Yakima County): Beginning in Union Gap where I-82 crosses the Yakima River, follow I-82 east to the Yakima River Bridge in Prosser. Upstream on the Yakima River to the point of beginning. The islands in the Yakima River are on the Yakama Indian Reservation and are not part of the deer area.))

Deer Area No. 4541 North Issaquah (King and Snohomish counties): That portion of GMU 454 beginning at the mouth of the Snohomish River at the city of Everett; SE up the Snohomish River to the Snoqualmie River; SE up the Snoqualmie River to NE Woodinville-Duvall Rd; E on NE Woodinville-Duvall Rd State Route (SR) 203 at the town of Duvall; S on SR 203 to SR 202 (Fall City-Snoqualmie Rd) at the town of Fall City; S on SR 202 (Fall City-Snoqualmie Rd), across the Snoqualmie River, to Preston-Fall City Rd; SW on Preston-Fall City Rd to SE 82nd St at the town of Preston; E on SE 82nd St to Interstate Hwy (I)-90; E on I-90 to SR 18; S and W on SR 18 to SR 99; N on SR 99 to SR 509; W on SR 509 to Redondo Way South; NW on Redondo Way South to the town of Redondo on Puget Sound; SW across East Passage to the Pierce-King county line at the point where the county line turns southeast, northwest of Dash Point; W and N along the King County line excluding Vashon-Maury Island; to the King, Snohomish, and Kitsap counties line junction in the Puget Sound West of Point Wells; N on the Snohomish County line through Possession Sound to a point on the Snohomish County line due West of the northern tip of Gedney Island (Hat Island); E to the northern tip of Gedney Island; E from the northern tip of Gedney Island to the mouth of the Snohomish River and the point of beginning.

Deer Area No. 5064: That part of GMU 564 in the Columbia River near the mouth of the Cowlitz River made up of Cottonwood Island and Howard Island.

Deer Area No. 5382 Simcoe (Klickitat County): That area within GMU 382 designated as WDFW owned lands managed as the Simcoe Mountains Unit of the Klickitat Wildlife Area.

Deer Area No. 6020 (Clallam and Jefferson counties): Dungeness-Miller Peninsula: That part of GMU 624 west of Discovery Bay and Salmon Creek.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-415-020 ((2015-2017)) 2018-2020 Deer general seasons and definitions. It is unlawful to fail to comply with the bag, possession, and season limits described below. Violations of this section are punishable under RCW 77.15.410 Unlawful hunting of big game—Penalty.

Bag Limit: One (1) deer per hunter during the license year except where otherwise permitted by department rule.

Hunting Method: Hunters must select one of the hunting methods: Modern firearm, archery, or muzzleloader.

Any Buck Deer Seasons: Open only to the taking of deer with visible antlers (buck fawns illegal).

Antler Point: To qualify as an antler point, the point must be at least one inch long, measured on the longest side.

Antler Restrictions: APPLIES TO ALL HUNTERS DURING ANY GENERAL SEASON AND DESIGNATED SPECIAL PERMIT SEASONS. Buck deer taken in antler restricted game management units (GMUs) must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Eye guards are antler points when they are at least one inch long.

3-point Minimum GMUs: All mule deer in 100, 200, and 300 series GMUs; white-tailed deer in GMUs 127, 130, 133, 136, 139, 142, 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, 186, and black-tailed deer in GMU 578.

Permit-only Units: The following GMUs require a special permit to hunt deer: 157 (Mill Creek Watershed), 290 (Desert), 329 (Quilomene), 371 (Alkali), and 485 (Green River).

GMUs Closed to Deer Hunting: 490 (Cedar River) and 522 (Loo-wit).

Types of deer that a person may legally hunt in Washington:

Hunt Season	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Game Management Units (GMUs)	Legal Deer
HIGH BUCK HUNTS					
	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Mount Baker, Glacier Peak, Pasayten, Olympic Peninsula, and Henry Jackson Wilderness Areas and Lake Chelan Recreation Area	3 pt. min.
GENERAL SEASON					
((Western Washington Black-tailed Deer))	Oct. 17-31	Oct. 15-31	Oct. 14-31	407, 418, 426, 437, 448, 450, 454, 460, 466, 501 through 520, 524 through 556, 560, 568, 572, 574, 601 through 621, 624 (except Deer Area 6020), 627 through 654, 658 through 699 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 564, 655, Deer Area 6020 578	Any buck Any deer 3 pt. min.)
Eastern Washington White-tailed Deer	Oct. ((17-30)) 13-26	Oct. ((15-28)) 12-25	Oct. ((14-27)) 17-30	101, 105, 108, 111, 113, 117, 121, 124	Any white-tailed buck
	Oct. ((17-27)) 13-23	Oct. ((15-25)) 12-22	Oct. ((14-24)) 17-27	203 through 284	Any white-tailed buck
	Oct. ((17-27)) 13-23	Oct. ((15-25)) 12-22	Oct. ((14-24)) 17-27	127 through 154, 162 through 186 (except Deer Area 1040)	White-tailed, 3 pt. min.
	Oct. ((17-27)) 13-23	Oct. ((15-25)) 12-22	Oct. ((14-24)) 17-27	373, 379, 381	Any white-tailed deer
((Eastern Washington White-tailed Deer in GMUs 117 and 121))	Oct. 17-30	Oct. 15-28	Oct. 14-27	117, 121	Any white-tailed buck)

Hunt Season	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Game Management Units (GMUs)	Legal Deer
Eastern Washington Mule Deer	Oct. ((17-27)) <u>13-23</u>	Oct. ((15-25)) <u>12-22</u>	Oct. ((14-24)) <u>17-27</u>	101 through 154, 162 through 169, 172 (except Deer Area 1040), 175 through 186, 203 through 284, 328, 330 through 368, 372, 373, 379, 381, 382 (except closed in Deer Area 5382), 388	Mule deer, 3 pt. min.
Western Washington Black-tailed Deer	Oct. 13-31	Oct. 12-31	Oct. 17 - Nov. 1	407, 418, 426, 437, 448, 450, 454, 460, 466, 501 through 520, 524 through 556, 560, 568, 572, 574, 601 through 621, 624 (except Deer Area 6020), 627 through 654, 658 through 699 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 564, 655, Deer Area 6020	Any buck Any deer
	Oct. 13-31	Oct. 12-31	Oct. 17 - Nov. 1	578	3 pt. min.
LATE GENERAL SEASON					
Western Washington Black-tailed Deer	Nov. ((19-22)) <u>15-18</u>	Nov. ((17-20)) <u>14-17</u>	Nov. ((16-19)) <u>19-22</u>	407, 454, 466, 501 through 520, 524 through 560, 568, 572, 601 through 621, 624 (except Deer Area 6020), 627 through 654, 658 through 699	Any buck
	Nov. ((19-22)) <u>15-18</u>	Nov. ((17-20)) <u>14-17</u>	Nov. ((16-19)) <u>19-22</u>	410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 564, 655, Deer Area 6020	Any deer
Eastern Washington White-tailed Deer	Nov. ((7-19)) <u>10-19</u>	Nov. ((5-19)) <u>9-19</u>	Nov. ((11-19)) <u>7-19</u>	105, 108, 111, 113, <u>117, 121, 124</u>	Any white-tailed buck
((Eastern Washington White-tailed Deer in GMUs 117 and 121))	Nov. 7-19	Nov. 5-19	Nov. 11-19	117, 121	Any white-tailed-buck))
HUNTERS 65 AND OVER, DISABLED, AND YOUTH GENERAL SEASONS					
Eastern Washington White-tailed Deer	Oct. ((17-30)) <u>13-26</u> and Nov. 10-19	Oct. ((15-28)) <u>12-25</u> and Nov. 9-19	Oct. ((14-27)) <u>17-30</u> and Nov. 7-19	124	Any white-tailed deer
	((Nov. 7-19	Nov. 5-19	Nov. 11-19	Deer Area 1050	Any white-tailed deer
	Nov. 7-19	Nov. 5-19	Nov. 11-19	Deer Areas 1060, 1070, 1080	White-tailed, antlerless only))
	Oct. ((17-27)) <u>13-23</u>	Oct. ((15-25)) <u>12-22</u>	Oct. ((14-24)) <u>17-27</u>	127 through 142, 145, 149, 154, Deer Area 1010, and 178	White-tailed, 3 pt. min. or antlerless
DISABLED AND YOUTH GENERAL SEASONS					
Eastern Washington White-tailed Deer	Oct. 13-14 and Oct. 20-21	Oct. 12-13 and Oct. 19-20	Oct. ((14-15)) <u>17-18</u> and Oct. ((21-22)) <u>24-25</u>	101, 105, 108, 111, 113, 117, 121	Any white-tailed deer

ARCHERY DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: A valid archery deer tag for the area hunted.

Special Notes: Archery tag holders can only hunt during archery seasons with archery equipment (WAC 220-414-070).

Hunt Area	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Game Management Units (GMUs)	Legal Deer
EARLY ARCHERY GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Sept. ((1-30)) <u>1-28</u>	Sept. ((1-30)) <u>1-27</u>	Sept. ((1-29)) <u>1-25</u>	407 through 426, 437, 448, 450, 454, 466, 501, 504, 505, ((524,)) 554, 564, 568, 621 through 636, 648 through 652, 654 through 673, 684 460, 503, 574, 601 through 618, 638, 642, 653, 681 and 699 578	Any deer Any buck 3 pt. min.
	Sept. ((4-27)) <u>1-23</u>	Sept. ((4-25)) <u>1-22</u>	Sept. ((4-24)) <u>1-20</u>	510, 513, 516, 520, <u>524, 530, 556</u> 506, ((530,)) 550, 560, 572	Any deer Any buck

Hunt Area	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Game Management Units (GMUs)	Legal Deer
Eastern Washington Mule Deer	Sept. ((4-30)) <u>1-28</u>	Sept. ((4-30)) <u>1-27</u>	Sept. ((4-29)) <u>1-25</u>	((105)) <u>101</u> through 121, 166, 169, 172 (except Deer Area 1040), 175, 181, 243, 334	3 pt. min.
				124 through 142, 145, 149, 186, 244 through 247, 249, 250, 260, 372, <u>284</u> , 373, 379, 381, 382 (except <u>closed in</u> Deer Area 5382), 388, Deer Area 3334	3 pt. min. or antlerless
	Sept. ((4-27)) <u>1-23</u>	Sept. ((4-25)) <u>1-22</u>	Sept. ((4-24)) <u>1-20</u>	154, 162, 163, 178	3 pt. min. or antlerless
	Sept. ((4-27)) <u>1-23</u>	Sept. ((4-25)) <u>1-22</u>	Sept. ((4-24)) <u>1-20</u>	251, 328, 335, 336, 340, 346, 352, 356, 360, 364, 368	3 pt. min.
	Sept. 1-15	Sept. 1-15	Sept. 1-15	((104)) 204 through 242, 248, 254, 262, 266, 269, 272, 278((<u>, 284</u>)))	3 pt. min.
	Sept. ((4-30)) <u>16-28</u>	Sept. ((4-30)) <u>16-27</u>	Sept. ((4-29)) <u>16-25</u>	((104)) 204 through 242, 248, 254, 262, 266, 269, 272, 278((<u>, 284</u>)))	3 pt. min. or antlerless
Eastern Washington White-tailed Deer	((Sept. 1-30	Sept. 1-30	Sept. 1-29	101, 105, 108, 111, 113, 117, 121	White-tailed, any-buck))
	Sept. ((4-30)) <u>1-28</u>	Sept. ((4-30)) <u>1-27</u>	Sept. ((4-29)) <u>1-25</u>	101 through 124, 204 through 250, 254 through 284, 373, 379, 381	Any white-tailed deer
	Sept. ((4-30)) <u>1-28</u>	Sept. ((4-30)) <u>1-27</u>	Sept. ((4-29)) <u>1-25</u>	127 through 149, 166, 172 (except Deer Area 1040), 181, 186	White-tailed, 3 pt. min. or antlerless
	Sept. ((4-27)) <u>1-23</u>	Sept. ((4-25)) <u>1-22</u>	Sept. ((4-24)) <u>1-20</u>	154, 162, 163, 178	White-tailed, 3 pt. min. or antlerless
	Sept. ((4-27)) <u>1-23</u>	Sept. ((4-25)) <u>1-22</u>	Sept. ((4-24)) <u>1-20</u>	169, 175	White-tailed, 3 pt. min.
LATE ARCHERY GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Nov. ((25)) <u>21 - Dec. 15</u>	Nov. ((23)) <u>27 - Dec. 15</u>	Nov. ((22)) <u>25 - Dec. 15</u>	437, 466, 510 through 520, 524	Any deer
	Nov. ((25)) <u>21 - Dec. 15</u>	Nov. ((23)) <u>27 - Dec. 15</u>	Nov. ((22)) <u>25 - Dec. 15</u>	448, 460, 506, 530, 560, 572, 601, 603 through 618, 638, 642, 681, and 699	Any buck
	Nov. ((25)) <u>21 - Dec. 31</u>	Nov. ((23)) <u>27 - Dec. 31</u>	Nov. ((22)) <u>25 - Dec. 31</u>	407, 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 454, 505, 564, 624, 627, 636, 648, 652, 654, 655, 660 through 672	Any deer
Eastern Washington Mule Deer	Nov. 21-30	Nov. 21-30	Nov. 21-30	209, 215, 233, 243, 250	3 pt. min.
	Nov. ((25)) <u>21 - Dec. 8</u>	Nov. ((23)) <u>27 - Dec. 8</u>	Nov. ((22)) <u>25 - Dec. 8</u>	336, 342, 346, 352, 364, 388, Deer Area 3682	3 pt. min.
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	145, 163, 178, 272, 278, 373, Deer Area 3372	3 pt. min. or antlerless
	Dec. 9-31	Dec. 9-31	Dec. 9-31	Deer Area 1021	Antlerless only
Eastern Washington White-tailed Deer	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	101	((White-tailed, any-buck)) Any white-tailed deer
	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	105, 108, 117, 121, 124	Any white-tailed deer
	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	Nov. 25 - Dec. 15	127	White-tailed, 3 pt. min. or antlerless
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	145, 163, 178, 272, 278	White-tailed, 3 pt. min. or antlerless
	Nov. ((25)) <u>21 - Dec. 15</u>	Nov. ((23)) <u>27 - Dec. 15</u>	Nov. ((22)) <u>25 - Dec. 15</u>	204, 209, 215, 233, 243, 373((<u>, 204, 209</u>)))	Any white-tailed deer
	((Nov. 23 - Dec. 9	Nov. 22 - Dec. 15	Nov. 22 - Dec. 15	105, 108, 117, 121	White-tailed, any-buck))

MUZZLELOADER DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: A valid muzzleloader deer tag for the area hunted.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment (WAC 220-414-060) or archery equipment (WAC 220-414-070).

Hunt Area	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Game Management Units (GMUs)	Legal Deer
High Buck Hunts	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten, Mount Baker, Olympic Peninsula, and Henry Jackson Wilderness areas, and Lake Chelan Recreation Area	3 pt. min.
EARLY MUZZLELOADER GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	((Oct. 3-11)) Sept. 29 - Oct. 7	((Oct. 1-9)) Sept. 28 - Oct. 6	((Sept. 30 - Oct. 8)) Sept. 26 - Oct. 4	407, 418, 426, 437, 448, 450, 501, 503, 504, 505, 506, 510, 513, 516, 520, 530, 550, 554, 560, 568, 572, 574, 603, 607, 612, 615, 624 (except Deer Area 6020), ((636, 638, 642, 648)) 633 through 651, 660, 663, 672, 673 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 454, 564, 627, 652, 655, 666, 684, and Deer Area 6020 578	Any buck Any deer 3 pt. min.
Eastern Washington White-tailed Deer	((Oct. 3-11)) Sept. 29 - Oct. 7	((Oct. 1-9)) Sept. 28 - Oct. 6	((Sept. 30 - Oct. 8)) Sept. 26 - Oct. 4	((101, 105, 108, 111, 113, 117, 121,)) 203, 204, 209, 215, 231, 233, 239, 242, 243, 244, 245, 246, 248, 250, 251, 260, 272, 278, 284 101 through 124 127, 142, 145, 149 130, 133, 136, 139, 175, 181, 186 373, 379	White-tailed, any buck Any white-tailed deer White-tailed, 3 pt. min. or antlerless White-tailed, 3 pt. min. Any white-tailed deer
Eastern Washington Mule Deer	((Oct. 3-11)) Sept. 29 - Oct. 7	((Oct. 1-9)) Sept. 28 - Oct. 6	((Sept. 30 - Oct. 8)) Sept. 26 - Oct. 4	101 through 149, 175, 181, 186, 203, 204, 209, 215, 231, 233, 239, 242, 243, 244, 245, 246, 248, 250, 251, 254, 260, 262, 266, 269, 272, 278, 284, 328, 330 through 342, 352 through 368, 373, 379	Mule deer, 3 pt. min.
Eastern Washington Mule Deer	((Oct. 3-11)) Sept. 29 - Oct. 7	((Oct. 1-9)) Sept. 28 - Oct. 6	((Sept. 30 - Oct. 8)) Sept. 26 - Oct. 4	Deer Areas 3334 and 3372	3 pt. min. or antlerless
LATE MUZZLELOADER GENERAL DEER SEASONS					
Western Washington Black-tailed Deer	Nov. ((25)) 21 - Dec. 15	Nov. ((23)) 27 - Dec. 15	Nov. ((22)) 25 - Dec. 15	407, 410, 411, 412, 413, 414, 415, 416, 417, 419, 420, 421, 422, 454, 504, 564, 633, 666, 684, and Deer Area 6020 448, 460, 501, 602, 621, 651, 654, 658, 667, and 673	Any deer Any buck
Eastern Washington White-tailed Deer	Nov. ((25)) 21 - Dec. 8	Nov. ((23)) 27 - Dec. 8	Nov. ((22)) 25 - Dec. 8	113	Any white-tailed buck
	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	130, 133, 136, 139, 142	White-tailed, 3 pt. min. or antlerless
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	172 (except Deer Area 1040), 181	White-tailed, 3 pt. min. or antlerless
	Nov. ((20-30)) 25 - Dec. 8	Nov. ((20-30)) 25 - Dec. 8	Nov. ((20-30)) 25 - Dec. 8	379, 381	Any white-tailed deer
Eastern Washington Mule Deer	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	130	Antlerless
	((Nov. 20-30	Nov. 20-30	Nov. 20-30	381, Deer Area 3372	3 pt. min. or antlerless))
	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	379, 381	3 pt. min.
	Nov. 20-30	Nov. 20-30	Nov. 20-30	((379,)) 382 (except closed in Deer Area 5382)	3 pt. min.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-415-030 ((2017)) 2018 Deer special permits. It is unlawful to fail to comply with the bag, possession, and season limits described below. A violation of this section is punishable under RCW 77.15.410 Unlawful hunting of big game—Penalty.

Deer Special Permit Hunting Seasons (Open to Permit Holders Only)

Hunters must purchase a deer hunting license prior to purchasing a permit application. Hunters may only apply for permits consistent with the tag required for the hunt choice; however, Multiple Season Permit holders may apply for archery, muzzleloader, or modern firearm permit hunts. Hunters drawn for a special permit hunt must comply with weapon restrictions, dates, and other conditions listed for the hunt. Hunters drawn for a special permit designated "**Any tag**" under the "**Weapon/Tag**" restriction must use equipment consistent with the requirements of their transport tag and license.

Quality						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Kelly Hill White-tailed Buck	Modern	Any	((Oct. 21 – Nov. 22)) Oct. 20 - Nov. 21	White-tailed, Any buck	GMU 105	5
Kelly Hill Mule Deer Buck	Modern	Any	Nov. ((4-22)) 3-21	Mule deer, 3 pt. min.	GMU 105	1
Douglas White-tailed Buck	Modern	Any	((Oct. 21 – Nov. 22)) Oct. 20 - Nov. 21	White-tailed, Any buck	GMU 108	5
Douglas Mule Deer Buck	Modern	Any	Nov. ((4-22)) 3-21	Mule deer, 3 pt. min.	GMU 108	1
Aladdin White-tailed Buck	Modern	Any	((Oct. 21 – Nov. 22)) Oct. 20 - Nov. 21	White-tailed, Any buck	GMU 111	5
Aladdin Mule Deer Buck	Modern	Any	Nov. ((4-22)) 3-21	Mule deer, 3 pt. min.	GMU 111	1
Selkirk Mule Deer Buck	Modern	Any	Nov. ((4-22)) 3-21	Mule deer, 3 pt. min.	GMU 113	1
49 Degrees North White-tailed Buck	Modern	Any	((Oct. 21 – Nov. 22)) Oct. 20 - Nov. 21	White-tailed, Any buck	GMU 117	5
49 Degrees North Mule Deer Buck	Modern	Any	Nov. ((4-22)) 3-21	Mule deer, 3 pt. min.	GMU 117	1
Huckleberry White-tailed Buck	Modern	Any	((Oct. 21 – Nov. 22)) Oct. 20 - Nov. 21	White-tailed, Any buck	GMU 121	5
Huckleberry Mule Deer Buck	Modern	Any	Nov. ((4-22)) 3-21	Mule deer, 3 pt. min.	GMU 121	1
Mt. Spokane	Modern	Any	Nov. 20-24	Any buck	GMU 124	5
Mica Peak	Modern	Any	Nov. 20-24	3 pt. min.	GMU 127	5
Cheney	Modern	Any	Nov. 20-24	3 pt. min.	GMU 130	5
Roosevelt	Modern	Any	Nov. 20-24	3 pt. min.	GMU 133	5
Steptoe	Modern	Any	Nov. 20-24	3 pt. min.	GMU 139	5
Almota	Modern	Any	Nov. 20-24	3 pt. min.	GMU 142	5
Dayton	Modern	Any	Nov. 20-24	3 pt. min.	GMU 162	5
Tucannon	Modern	Any	Nov. 20-24	3 pt. min.	GMU 166	2
Wenaha West	Modern	Any	Nov. 7-14	Mule deer, 3 pt. min.	((Dear)) Deer Area 1008	2
Wenaha East	Modern	Any	Nov. 7-14	Mule deer, 3 pt. min.	Deer Area 1009	5
((Lick Creek	Modern	Any	Nov. 20-24	3 pt. min.	GMU-175	+))
Ten-Forty	Modern	Any	Nov. ((7-14)) 5-11	White-tailed deer, 3 pt. min.	Deer Area 1040	2
Grande Ronde	Modern	Any	Nov. 20-24	3 pt. min.	GMU 186	1
East Okanogan	Modern	Any	Nov. 1-20	Any buck	GMU 204	10
Sinlahekin	Modern	Any	Nov. 1-20	Any buck	GMU 215	10
Chewuch	Modern	Any	Nov. 1-20	Any buck	GMU 218	20
Pearrygin	Modern	Any	Nov. 1-20	Any buck	GMU 224	15
Gardner	Modern	Any	Nov. 1-20	Any buck	GMU 231	15
Pogue	Modern	Any	Nov. 1-20	Any buck	GMU 233	15
Alta	Modern	Any	Nov. 1-20	Any buck	GMU 242	((10)) 15
Manson	Modern	Any	Nov. 1-20	Any buck	GMU 243	7
Chiwawa	Modern	Any	Nov. 1-20	Any buck	GMU 245	19
Slide Ridge	Modern	Any	Nov. 1-20	Any buck	GMU 246	7

Quality						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Entiat	Modern	Any	Nov. 1-20	Any buck	GMU 247	18
Swakane	Modern	Any	Nov. 1-20	Any buck	GMU 250	11
Mission	Modern	Any	Nov. 1-20	Any buck	GMU 251	7
Desert	Modern	Any	Oct. ((21-29)) 20-28	Any buck	GMU 290	14
Desert	Modern	Any	Nov. ((41-19)) 10-18	Any buck	GMU 290	5
Naneum	Modern	Any	Nov. ((13-19)) 12-18	Any buck	GMU 328	14
Quilomene	Modern	Any	Nov. ((6-19)) 5-18	Any buck	GMU 329	13
Teanaway	Modern	Any	Nov. ((13-19)) 12-18	Any buck	GMU 335	21
L.T. Murray	Modern	Any	Nov. ((13-19)) 12-18	Any buck	GMUs 336, 340	5
Bethel	Modern	Any	Nov. ((6-19)) 5-18	Any buck	GMU 360	5
Cowiche	Modern	Any	Nov. ((6-19)) 5-18	Any buck	GMU 368	10
Alkali	Modern	Any	Nov. ((4-19)) 3-18	Any buck	GMU 371	4
((Kahlotus	Modern	Any	Nov. 8-17	Any buck	GMU 381	10
Simeoe	Modern	Any	Oct. 14-24	3 pt. min.	Dear Area 5382	3))
Grayback	Modern	Any	Nov. ((6-21)) 5-20	3 pt. min.	GMU 388	40
Nooksack	Modern	Any	Nov. ((41-16)) 1-14	Any buck	GMU 418	25
Skagit	Modern	Any	Nov. ((11-16)) 1-14	Any buck	GMU 426	10
Sauk	Modern	Any	Nov. ((41-16)) 1-14	Any buck	GMU 437	25
Stillaguamish	Modern	Any	Nov. ((41-16)) 1-19	Any buck	GMU 448	((10)) 12
Snoqualmie	Modern	Any	Nov. ((11-16)) 1-19	Any buck	GMU 460	10
Green River	Any tag	Any	((Nov. 4-10)) Oct. 20-26	Any buck	GMU 485	5
Lincoln	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 501	4
Mossyrock	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 505	4
Willapa Hills	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 506	4
Stormking	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 510	1
South Rainier	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 513	1
Packwood	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 516	1
Winston	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 520	4
Ryderwood	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 530	4
Coweeman	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 550	4
Toutle	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 556	1
Lewis River	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 560	1
Washougal	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 568	2
Siouxon	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 572	1
Wind River	Modern	Any	Nov. ((16-21)) 12-20	Any buck	GMU 574	40
West Klickitat	Modern	Any	Nov. ((16-22)) 12-20	3 pt. min.	GMU 578	25
Mason	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 633	10
Wynoochee	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 648	((10)) 8
Satsop	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 651	10
White River	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 653	10
Mashel	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 654	10
Minot Peak	Modern	Any	Nov. 1-14	Any buck	GMU 660	4
Capitol Peak	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 663	((10)) 7
Skookumchuck	Modern	Any	Nov. ((1-15)) 1-14	Any buck	GMU 667	10
Fall River	Modern	Any	Nov. 1-14	Any buck	GMU 672	4
Chiliwist	Archery	Any	Nov. 21-30	Any buck	GMU 239	((15)) 10

Quality						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Chiwawa	Archery	Any	Dec. 1-8	Any buck	GMU 245	7
Slide Ridge	Archery	Any	Dec. 1-8	Any buck	GMU 246	2
Entiat	Archery	Any	Nov. 21-30	Any buck	GMU 247	35
Desert	Archery	Any	Sept. 1 - Oct. ((7)) 5	Any buck	GMU 290	12
Desert	Archery	Any	((Nov. 25 - Dec. 10)) Nov. 24 - Dec. 9	Any buck	GMU 290	12
Naneum	Archery	Any	Nov. ((20)) 21 - Dec. 8	Any buck	GMU 328	8
Quilomene	Archery	Any	Nov. ((20)) 21 - Dec. 8	Any buck	GMU 329	6
Teanaway	Archery	Any	Nov. ((20)) 21 - Dec. 8	Any buck	GMU 335	10
((Simeee	Archery	Any	Sept. 1-29	3 pt. min.	Deer Area 5382	3
West Klickitat	Archery	Any	Nov. 23-29	3 pt. min.	GMU-578 40))	
Kitsap	Archery	Any	Nov. ((4-15)) 1-14	Any buck	GMU 627	10
Skokomish	Archery	Any	Nov. ((4-15)) 1-14	Any buck	GMU 636	10
Blue Mtns. Foothills	Muzzleloader	Any	Nov. 20 - Dec. 8	White-tailed, 3 pt. min.	GMUs 149, 154, 162, 166	70
Alta	Muzzleloader	Any	Nov. 21-30	Any buck	GMU 242	15
Chiwawa	Muzzleloader	Any	Nov. 25-30	Any buck	GMU 245	2
Slide Ridge	Muzzleloader	Any	Nov. 25-30	Any buck	GMU 246	1
Mission	Muzzleloader	Any	Nov. 25-30	Any buck	GMU 251	11
Desert	Muzzleloader	Any	Oct. ((7-15)) 6-14	Any buck	GMU 290	2
Teanaway	Muzzleloader	Any	Nov. ((6-12)) 5-11	Any buck	GMU 335	3
L.T. Murray	Muzzleloader	Any	Nov. ((6-12)) 5-11	Any buck	GMUs 336, 340	1
Bald Mountain	Muzzleloader	Any	Nov. ((6-19)) 5-18	Any buck	GMUs 342, 346	2
Naneum	Muzzleloader	Any	Nov. ((6-12)) 5-11	Any buck	GMU 328	1
Quilomene	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Any buck	GMU 329	1
((Simeee	Muzzleloader	Any	Nov. 20-30	3 pt. min.	Deer Area 5382	3
West Klickitat	Muzzleloader	Any	Nov. 30 - Dec. 6	3 pt. min.	GMU-578 40))	
Olympic	Muzzleloader	Any	Nov. ((4-15)) 1-14	Any buck	GMU 621	10

Bucks						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Palouse	Modern	Any	Nov. 11-19	White-tailed, 3 pt. min.	GMUs 127-142	750
Blue Mtns. Foothills West	Modern	Any	Nov. 9-19	White-tailed, 3 pt. min.	GMUs 149, 154, 162((-)), 163, 166	110
Blue Mtns. Foothills East	Modern	Any	Nov. 9-19	White-tailed, 3 pt. min.	GMUs 145, 172 (except Deer Area 1040)((-)), 178, 181	50
Mayview	Any tag	Any	Nov. 16-19	3 pt. min.	GMU 145	25
Ten Forty	Modern	Any	Oct. ((14-22)) 13-21	3 pt. min.	Deer Area 1040	2
Lick Creek	Modern	Any	Nov. 20-24	3 pt. min.	GMU 175	1
East Okanogan	Modern	Any	Nov. 1-20	Any white-tailed deer	GMU 204	40
Sinlahekin	Modern	Any	Nov. 1-20	Any white-tailed deer	GMU 215	50
Chewuch	Modern	Any	Nov. 1-20	Any white-tailed deer	GMU 218	15
Pearrygin	Modern	Any	Nov. 1-20	Any white-tailed deer	GMU 224	15
Gardner	Modern	Any	Nov. 1-20	Any white-tailed deer	GMU 231	15
Pogue	Modern	Any	Nov. 1-20	Any white-tailed deer	GMU 233	15
Chiliwist	Modern	Any	Nov. 1-20	Any white-tailed deer	GMU 239	15
Alta	Modern	Any	Nov. 1-20	Any white-tailed deer	GMU 242	15
Ritzville	Modern	Any	Nov. 1-20	Any buck	GMU 284	9
Simcoe	Modern	Any	Oct. 13-23	3 pt. min.	Deer Area 5382	3
Hoko	Modern	Any	Nov. ((4-15)) 1-14	Any buck	GMU 601	5

Bucks						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Sol Duc	Modern	Any	Nov. ((4-15)) 1-14	Any buck	GMU 607	5
Goodman	Modern	Any	Nov. ((4-15)) 1-14	Any buck	GMU 612	5
Clearwater	Modern	Any	Nov. ((4-15)) 1-14	Any buck	GMU 615	5
Quinault Ridge	Modern	Any	Nov. ((4-15)) 1-14	Any buck	GMU 638	((5)) 2
North River	Modern	Any	Nov. ((4-15)) 1-14	Any buck	GMU 658	((10)) 5
Williams Creek	Modern	Any	Nov. ((4-15)) 1-14	Any buck	GMU 673	((10)) 7
Bear River-Long Beach	Modern	Any	Nov. ((4-15)) 1-14	Any buck	GMUs 681, 684	((5)) 2
Parker Lake	Archery	Any	Sept. 1-30 and Nov. ((20)) 19 - Dec. ((2)) 1	Any white-tailed deer	Deer Area 1031	5
Ten Forty	Archery	Any	Sept. 1-14	3 pt. min.	Deer Area 1040	2
Big Bend	Archery	Any	Dec. 1-8	Any buck	GMU 248	10
Ritzville	Archery	Any	Dec. 1-8	Any buck	GMU 284	21
Alkali	Archery	Any	Sept. ((4-24)) 1-23	Any buck	GMU 371	2
Whitcomb	Archery	Any	Oct. 1-10	Any buck	Deer Area 3071	10
Paterson	Archery	Any	Oct. 1-10	Any buck	Deer Area 3072	10
Simcoe	Archery	Any	Sept. 1-28	3 pt. min.	Deer Area 5382	3
West Klickitat	Archery	Any	Nov. 21-29	3 pt. min.	GMU 578	40
Whitcomb	Muzzleloader	Any	Nov. 19-27	Any buck	Deer Area 3071	5
Paterson	Muzzleloader	Any	Nov. 19-27	Any buck	Deer Area 3072	5
Parker Lake	Muzzleloader	Any	Oct. 1-31 and Dec. ((3-15)) 2-14	Any white-tailed deer	Deer Area 1031	5
((Roosevelt	Muzzleloader	Any	Sept. 30—Oct. 13	ONLY 2 pt. x 2 pt. mule-deer bucks	GMU 133	25
Harrington	Muzzleloader	Any	Sept. 30—Oct. 13	ONLY 2 pt. x 2 pt. mule-deer bucks	GMU 136	25
Steptoe	Muzzleloader	Any	Sept. 30—Oct. 13	ONLY 2 pt. x 2 pt. mule-deer bucks	GMU 139	25
Almota	Muzzleloader	Any	Sept. 30—Oct. 13	ONLY 2 pt. x 2 pt. mule-deer bucks	GMU 142	25))
Dayton	Muzzleloader	Any	((Sept. 30—Oct. 8)) Sept. 29 - Oct. 7	3 pt. min.	GMU 162	25
Tucannon	Muzzleloader	Any	((Sept. 30—Oct. 8)) Sept. 29 - Oct. 7	3 pt. min.	GMU 166	10
Wenaha	Muzzleloader	Any	((Sept. 30—Oct. 8)) Sept. 29 - Oct. 7	3 pt. min.	GMU 169	((15)) 20
Mountain View	Muzzleloader	Any	((Sept. 30—Oct. 8)) Sept. 29 - Oct. 7	3 pt. min.	GMU 172 (except Deer Area 1040)	15
Ten Forty	Muzzleloader	Any	((Sept. 30—Oct. 8)) Sept. 29 - Oct. 7	3 pt. min.	Deer Area 1040	2
Peola	Muzzleloader	Any	Sept. 29 - Oct. 7	3 pt. min.	GMU 178	10
Ritzville	Muzzleloader	Any	Nov. ((25-30)) 24-30	Any buck	GMU 284	1
Alkali	Muzzleloader	Any	((Sept. 25—Oct. 15)) Sept. 24 - Oct. 14	Any buck	GMU 371	1
Kahlotus	Muzzleloader	Any	((Sept. 30—Oct. 8)) Sept. 29 - Oct. 7	Any buck	GMU 381	20
Simcoe	Muzzleloader	Any	Nov. 20-30	3 pt. min.	Deer Area 5382	3
West Klickitat	Muzzleloader	Any	Nov. 30 - Dec. 8	3 pt. min.	GMU 578	40
Dickey	Muzzleloader	Any	Nov. ((4-15)) 1-14	Any buck	GMU 602	5
Copalis-Matheny	Muzzleloader	Any	Nov. ((4-15)) 1-14	Any buck	GMUs 618, 642	5

Antlerless						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Sherman	Modern	Any	Oct. 13-26	White-tailed, antlerless	GMU 101	<u>10</u>
Kelly Hill	Modern	Any	Oct. 13-26	White-tailed, antlerless	GMU 105	<u>30</u>
Douglas	Modern	Any	Oct. 13-26	White-tailed, antlerless	GMU 108	<u>40</u>
Aladdin	Modern	Any	Oct. 13-26	White-tailed, antlerless	GMU 111	<u>50</u>
Selkirk	Modern	Any	Oct. 13-26	White-tailed, antlerless	GMU 113	<u>50</u>
49 Degrees North	Modern	Any	Oct. 13-26	White-tailed, antlerless	GMU 117	<u>100</u>
Huckleberry	Modern	Any	Oct. 13-26	White-tailed, antlerless	GMU 121	<u>225</u>
Mayview	Modern	Any	Nov. 1-12	Antlerless	GMU 145	((50)) <u>40</u>
Mayview	Modern	Any	Nov. 1-12	White-tailed, antlerless	GMU 145	<u>25</u>
Prescott	Modern	Any	Nov. 1-12	Antlerless	GMU 149	((80)) <u>70</u>
Prescott	Modern	Any	Nov. 1-12	White-tailed, antlerless	GMU 149	<u>20</u>
Blue Creek	Modern	Any	Nov. 9-19	White-tailed, antlerless	GMU 154	<u>50</u>
Dayton	Modern	Any	Nov. 9-19	White-tailed, antlerless	GMU 162	<u>100</u>
Ten Ten	Modern	Any	Nov. 9-19	Antlerless	Deer Area 1010	<u>30</u>
Marengo	Modern	Any	Nov. 1-12	White-tailed, antlerless	GMU 163	<u>50</u>
Marengo	Modern	Any	Nov. 1-12	Antlerless	GMU 163	((40)) <u>30</u>
Peola	Modern	Any	Nov. 1-12	Antlerless	GMU 178	((75)) <u>50</u>
Couse	Modern	Any	Nov. 1-12	Antlerless	GMU 181	<u>25</u>
East Klickitat	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 382 (except ((Dear)) <u>CLOSED</u> in Deer Area 5382)	<u>5</u>
((Grayback	Modern	Any	Oct. 14-24	Antlerless	GMU 388	<u>5))</u>
Lincoln	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 501	<u>15</u>
Stella	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 504	<u>15</u>
Mossyrock	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 505	<u>30</u>
South Rainier	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 513	<u>10</u>
Winston	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 520	<u>20</u>
Ryderwood	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 530	<u>10</u>
Lewis River	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 560	<u>3</u>
Siouxon	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 572	<u>3</u>
Wind River	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 574	<u>3</u>
West Klickitat	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 578	<u>5</u>
Olympic	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 621	((40)) <u>15</u>
Coyle	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 624	<u>20</u>
Kitsap	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 627	<u>15</u>
Mason	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 633	((35)) <u>15</u>
Skokomish	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 636	((20)) <u>5</u>
Wynoochee	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 648	<u>20</u>
Satsop	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 651	((20)) <u>15</u>
Mashel	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 654	<u>30</u>
North River	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 658	<u>15</u>
Minot Peak	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 660	((20)) <u>15</u>

Antlerless						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Capitol Peak	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 663	((15)) <u>12</u>
Skookumchuck	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 667	30
Williams Creek	Modern	Any	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 673	5
Whitcomb	Archery	Any	Oct. 20-30	Antlerless	Deer Area 3071	10
Paterson	Archery	Any	Oct. 20-30	Antlerless	Deer Area 3072	10
((Graybaek	Archery	Any	Nov. 22 - Dec. 8	Antlerless	GMU 388	((75))
Whitcomb	Muzzleloader	Any	Nov. 29 - Dec. 5	Antlerless	Deer Area 3071	10
Paterson	Muzzleloader	Any	Nov. 29 - Dec. 5	Antlerless	Deer Area 3072	10
Selkirk	Muzzleloader	Any	Nov. 25 - Dec. 8	White-tailed, antlerless	GMU 113	15
Washtucna	Muzzleloader	Any	Nov. 25 - Dec. 8	Antlerless	GMUs 139, 142, 284, 381	200
Prescott	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 149	((35)) <u>25</u>
Blue Creek	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 154	20
Mossyrock	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 505	10
Stormking	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 510	5
South Rainier	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 513	5
Packwood	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 516	5
Winston	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 520	5
Ryderwood	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 530	10
Coweeman	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 550	10
Yale	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 554	2
West Klickitat	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 578	5
Olympic	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 621	((40)) <u>20</u>
Coyle	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 624	((25)) <u>20</u>
Kitsap	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 627	((15)) <u>20</u>
Mason	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 633	((35)) <u>20</u>
Skokomish	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 636	((20)) <u>5</u>
Wynoochee	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 648	15
Satsop	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 651	((25)) <u>15</u>
Mashel	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 654	35
North River	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 658	15
Minot Peak	Muzzleloader	Any	((Sept. 30 - Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 660	5

Antlerless						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Capitol Peak	Muzzleloader	Any	((Sept. 30—Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 663	((20)) <u>18</u>
Williams Creek	Muzzleloader	Any	((Sept. 30—Oct. 8)) Sept. 29 - Oct. 7	Antlerless	GMU 673	5

2nd Deer

Second deer permits are only valid with the purchase of a second deer license. The second deer license must be for the same tag type as the first deer license.

Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Colville River	Any	Any	Sept. 1 - Dec. 31	White-tailed, antlerless	Deer Area 1035	25
Benge	Any	Any	Dec. 9-31	Antlerless	Deer Area 2010	30
Lakeview	Any	Any	Jan. 1-30, ((2018)) <u>2019</u>	Antlerless	Deer Area 2011	15
Methow	Any	Any	((Sept. 7—Oct. 8)) Sept. 4 - Oct. 7	Antlerless	Deer Area 2012	((15)) <u>10</u>
North Okanogan	Any	Any	((Sept. 7—Oct. 8)) Sept. 4 - Oct. 7	Antlerless	Deer Area 2013	((20)) <u>15</u>
Central Okanogan	Any	Any	((Sept. 7—Oct. 8)) Sept. 4 - Oct. 7	Antlerless	Deer Area 2014	((20)) <u>15</u>
Omak	Any	Any	((Sept. 7—Oct. 8)) Sept. 4 - Oct. 7	Antlerless	Deer Area 2015	15
Conconully	Any	Any	((Sept. 7—Oct. 8)) Sept. 4 - Oct. 7	Antlerless	Deer Area 2016	15
Lake Chelan North	Any	Any	Aug. 1-31	Antlerless	Deer Area 2017	45
North Issaquah	<u>Any</u>	<u>Any</u>	Oct. 13-31 and Nov. 15-18	Antlerless	<u>Deer Area 4541</u>	<u>10</u>
Mt. Spokane	Modern	Any	Oct. ((14-27)) <u>13-26</u> and Nov. ((11-19)) <u>10-19</u>	Antlerless	GMU 124	((50)) <u>350</u>
((Spokane North	Modern	Any	Oct. 14-27 and Nov. 11-19	Antlerless	Deer Area 1050	<u>350))</u>
Mica Peak	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 127	((25)) <u>100</u>
((Spokane South	Modern	Any	Oct. 14-24	Antlerless	Deer Area 1060	<u>75))</u>
Cheney	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 130	((100)) <u>150</u>
((Spokane West	Modern	Any	Oct. 14-24	Antlerless	Deer Area 1070	<u>100))</u>
Roosevelt	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 133	150
Harrington	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 136	150
((Steptoe	Modern	Any	Oct. 14-24	Antlerless	GMU 139	200
Cowlitz	Modern	Any	Oct. 14-24	Antlerless	Deer Area 1080	150
Almota	Modern	Any	Oct. 14-24	Antlerless	GMU 142	<u>150))</u>
Washtucna	Modern	<u>Any</u>	<u>Oct. 13-23</u>	Antlerless	<u>GMUs 139, 142, 284, 381</u>	<u>350</u>
Mayview	Modern	Any	Nov. 1-12	Antlerless	GMU 145	((35)) <u>15</u>
Blue Creek	Modern	Any	Nov. 9-19	White-tailed, antlerless	GMU 154	30
Ten Ten	Modern	Any	Nov. 9-19	White-tailed, antlerless	Deer Area 1010	30
East Okanogan	Modern	Any	Oct. ((14-24)) <u>13-23</u>	White-tailed, antlerless	GMU 204	((100)) <u>60</u>
Sinlahekin	Modern	Any	Oct. ((14-24)) <u>13-23</u>	White-tailed, antlerless	GMU 215	((60)) <u>40</u>
Chewuch	Modern	Any	Oct. ((14-24)) <u>13-23</u>	White-tailed, antlerless	GMU 218	((15)) <u>10</u>
Pearrygin	Modern	Any	Oct. ((14-24)) <u>13-23</u>	White-tailed, antlerless	GMU 224	((15)) <u>10</u>

2nd Deer						
Second deer permits are only valid with the purchase of a second deer license. The second deer license must be for the same tag type as the first deer license.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Gardner	Modern	Any	Oct. ((14-24)) <u>13-23</u>	White-tailed, antlerless	GMU 231	((15)) <u>10</u>
Pogue	Modern	Any	Oct. ((14-24)) <u>13-23</u>	White-tailed, antlerless	GMU 233	((30)) <u>10</u>
Chiliwist	Modern	Any	Oct. ((14-24)) <u>13-23</u>	White-tailed, antlerless	GMU 239	((20)) <u>10</u>
Alta	Modern	Any	Oct. ((14-24)) <u>13-23</u>	White-tailed, antlerless	GMU 242	((15)) <u>10</u>
Big Bend	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 248	((35)) <u>25</u>
St. Andrews	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 254	((20)) <u>15</u>
Foster Creek	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 260	((20)) <u>15</u>
Withrow	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 262	((20)) <u>15</u>
Badger	Modern	Any	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 266	15
Desert	Modern	Any	Dec. ((14-25)) <u>10-25</u>	Antlerless	GMU 290	25
Kahlotus	Modern	Any	Dec. ((14-9)) <u>9-17</u>	Antlerless	GMU 381	((20)) <u>10</u>
Orcas	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 411	((40)) <u>60</u>
Shaw	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 412	((20)) <u>30</u>
San Juan	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 413	((40)) <u>50</u>
Lopez	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 414	((40)) <u>60</u>
Blakely	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 415	30
Decatur	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 416	5
Cypress	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 417	30
Guemes	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 419	20
Whidbey	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 420	((100)) <u>120</u>
Camano	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 421	30
Vashon-Maury	((Modern)) Any	Any	((Oct. 14-31 and Nov. 14-19)) Aug. 1 - Dec. 31	Antlerless	GMU 422	((100)) <u>200</u>
Anderson	Modern	Any	Oct. ((14-31)) <u>13-31</u> and Nov. ((14-19)) <u>15-18</u>	Antlerless	GMU 655	40

2nd Deer						
Second deer permits are only valid with the purchase of a second deer license. The second deer license must be for the same tag type as the first deer license.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Deschutes	Modern	Any	Oct. ((14-31)) 13-31	Antlerless	GMU 666	40
Mt. Spokane	Archery	Any	Sept. ((1-29)) 1-28 and Nov. 25 - Dec. 15	Antlerless	GMU 124	((25)) 100
((Spokane North	Archery	Any	Sept. 1-29 and Nov. 25 - Dec. 15	Antlerless	Deer Area 1050	75))
Mica Peak	Archery	Any	Sept. ((1-29)) 1-28 and Nov. 25 - Dec. 15	Antlerless	GMU 127	((25)) 75
((Spokane South	Archery	Any	Sept. 1-29 and Nov. 25 - Dec. 15	Antlerless	Deer Area 1060	75))
Clarkston	Archery	Any	Nov. 20 - Dec. 31	Antlerless	Deer Area 1021	((30)) 20
Orcas	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 411	((25)) 40
Shaw	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 412	20
San Juan	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 413	((20)) 30
Lopez	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 414	((20)) 30
Blakely	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 415	((10)) 20
Decatur	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 416	5
Cypress	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 417	20
Guemes	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 419	10
Whidbey	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 420	((30)) 50
Camano	Archery	Any	Sept. ((1-29)) 1-28 and Nov. ((22)) 21 - Dec. 31	Antlerless	GMU 421	25
((Vashon-Maury	Archery	Any	Sept. 1-29 and Nov. 22 - Dec. 31	Antlerless	GMU 422	30))
Miller	Archery	Any	Dec. ((15-31)) 16-31	Antlerless	Deer Area 6020	40
Anderson	Archery	Any	Sept. ((1-29)) 1-28 and Dec. 19-31	Antlerless	GMU 655	10
Mt. Spokane	Muzzleloader	Any	Sept. ((30-Oct. 8)) 29 - Oct. 7	Antlerless	GMU 124	((25)) 125
((Spokane North	Muzzleloader	Any	Sept. 30 - Oct. 8 and Dec. 9-31	Antlerless	Deer Area 1050	100))
Cheney	Muzzleloader	Any	Sept. ((30)) 29 - Oct. ((8)) 7 and Nov. 25 - Dec. 8	Antlerless	GMU 130	25
Roosevelt	Muzzleloader	Any	Sept. ((30)) 29 - Oct. ((8)) 7 and Nov. 25 - Dec. 8	Antlerless	GMU 133	25
Harrington	Muzzleloader	Any	Sept. ((30)) 29 - Oct. ((8)) 7 and Nov. 25 - Dec. 8	Antlerless	GMU 136	25
((Cowlitz	Muzzleloader	Any	Sept. 30 - Oct. 8 and Nov. 25 - Dec. 8	Antlerless	Deer Area 1080	50))
Mayview	Muzzleloader	Any	Sept. ((30-Oct. 30)) 29 - Oct. 7	Antlerless	GMU 145	((30)) 10
Foster Creek	Muzzleloader	Any	Sept. ((30-Oct. 30)) 29 - Oct. 7	Antlerless	GMU 260	10

2nd Deer						
Second deer permits are only valid with the purchase of a second deer license. The second deer license must be for the same tag type as the first deer license.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Moses Coulee	Muzzleloader	Any	Sept. ((30–Oct. 30)) <u>29</u> - Oct. 7	Antlerless	GMU 269	10
Lakeview	Muzzleloader	Any	Nov. 1-18	Antlerless	Deer Area 2011	5
Orcas	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 411	20
Shaw	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 412	20
San Juan	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 413	20
Lopez	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 414	20
Blakely	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 415	((5)) <u>10</u>
Decatur	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 416	5
Cypress	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 417	20
Guemes	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 419	10
Whidbey	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 420	20
Camano	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 421	20
((Vashon-Maury	Muzzleloader	Any	Sept. 30 - Oct. 8 and Nov. 22 - Dec. 15	Antlerless	GMU 422	20))
Anderson	Muzzleloader	Any	Sept. ((30)) <u>29</u> - Oct. ((8)) <u>7</u> and Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 655	5

Youth						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Washtucna	Modern	Youth	Oct. 13-23	Any deer	GMUs 139, 142, 284, 381	100
Blue Mtns. Foothills West	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMUs 149, 154, 163, Deer Area 1010	60
Blue Mtns. Foothills East	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMUs 145, 172 (except Deer Area 1040)(-), 178, 181	40
Mayview	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Any deer	GMU 145	15
Prescott	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Any deer	GMU 149	20
Peola	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Any deer	GMU 178	20
Tucannon	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	White-tailed, antlerless	GMU 166	10
Ten Forty	Modern	Youth	Oct. ((14-22)) <u>13-21</u>	Antlerless	Deer Area 1040	5
Couse	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 181	15
Couse	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Any deer	GMU 181	5

Youth						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
East Okanogan	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 204	((60)) <u>20</u>
Wannacut	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 209	10
Sinlahekin	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 215	((30)) <u>10</u>
Chewuch	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 218	10
Pearrygin	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 224	((20)) <u>10</u>
Gardner	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 231	10
Pogue	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 233	((30)) <u>10</u>
Chiliwist	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 239	((20)) <u>10</u>
Alta	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 242	((20)) <u>10</u>
Chiwawa	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 245	5
Entiat	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 247	5
Swakane	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 250	3
Mission	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 251	8
Bridgeport	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMUs 248, 260	20
Palisades	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMUs 266, 269	20
Beezley	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	((Antlerless)) Any deer	GMU 272	50
((Ritzville	Modern	Youth	Oct. 14-24	Antlerless	GMU 284	50))
Benge	Modern	Youth	Oct. ((30)) <u>27</u> - Nov. ((7)) <u>4</u>	Antlerless	Deer Area 2010	30
Desert	Modern	Youth	Dec. ((9-24)) <u>9-23</u>	Antlerless	GMU 290	5
Horse Heaven Hills	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 373	10
Ringold	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 379	10
((Kahlotus	Modern	Youth	Oct. 14-24	Antlerless	GMU 381	10))
Simcoe	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	Deer Area 5382	2
East Klickitat	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Any buck	GMU 382 (except <u>CLOSED</u> in Deer Area 5382)	5
East Klickitat	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 382 (except <u>CLOSED</u> in Deer Area 5382)	10
((East Klickitat	Modern	Youth	Dec. 16 - Jan. 1, 2018	Antlerless	GMU 382 (except Deer Area 5382)	10
East Klickitat	Modern	Youth	Jan. 13-28, 2018	Antlerless	GMU 382 (except Deer Area 5382)	10))
Grayback	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Any buck	GMU 388	5
Grayback	Modern	Youth	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 388	10
((Green River	Modern	Youth	Nov. 4-10	Any Buck	GMU 485	5))
Lincoln	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 501	10
Randle	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 503	5
Stella	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 504	10
Mossyrock	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 505	10
Stormking	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 510	10
South Rainier	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 513	10
Packwood	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 516	10
Winston	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 520	10
Ryderwood	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 530	10
Coweeman	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 550	10

Youth						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Yale	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 554	10
Toutle	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 556	10
Lewis River	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 560	5
Washougal	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 568	10
Siouxon	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 572	5
Wind River	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 574	10
West Klickitat	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Any buck	GMU 578	5
West Klickitat	Modern	Youth	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 578	10
Pysht	Modern	Youth	Nov. ((1-15)) <u>1-14</u>	Any buck	GMU 603	5
Olympic	Modern	Youth	Oct. ((7-31)) <u>6-31</u>	Any deer	GMU 621	((25)) <u>10</u>
Coyle	Modern	Youth	Oct. ((9-31)) <u>8-31</u>	((Antlerless)) Any deer	GMU 624	((15)) <u>10</u>
Kitsap	Modern	Youth	Oct. ((9-31)) <u>8-31</u>	Any deer	GMU 627	10
Mason	Modern	Youth	Nov. ((1-15)) <u>1-14</u>	Any deer	GMU 633	((20)) <u>10</u>
Skokomish	Modern	Youth	Oct. ((9-31)) <u>8-31</u>	((Antlerless)) Any deer	GMU 636	((10)) <u>5</u>
Wynoochee	Modern	Youth	Oct. ((9-31)) <u>8-31</u>	((Antlerless)) Any deer	GMU 648	((15)) <u>12</u>
Satsop	Modern	Youth	Oct. ((7-31)) <u>8-31</u>	((Antlerless)) Any deer	GMU 651	((15)) <u>10</u>
Mashel	Modern	Youth	Oct. ((7-31)) <u>6-31</u>	Antlerless	GMU 654	15
North River	Modern	Youth	Oct. ((7-31)) <u>6-31</u>	Antlerless	GMU 658	10
Minot Peak	Modern	Youth	Oct. ((9-31)) <u>8-31</u>	((Antlerless)) Any deer	GMU 660	((10)) <u>6</u>
Minot Peak	Modern	Youth	Nov. ((1-15)) <u>1-14</u>	Any buck	GMU 660	((10)) <u>4</u>
Capitol Peak	Modern	Youth	Oct. ((9-31)) <u>8-31</u>	((Antlerless)) Any deer	GMU 663	((10)) <u>8</u>
Skookumchuck	Modern	Youth	Oct. ((7-31)) <u>6-31</u>	Antlerless	GMU 667	15
Skookumchuck	Modern	Youth	Oct. ((7-31)) <u>6-31</u>	Any buck	GMU 667	20
East Okanogan	Muzzleloader	Youth	Sept. ((30-Oct. 8)) <u>29-</u> <u>Oct. 7</u>	Antlerless	GMU 204	((10)) <u>5</u>
Wannacut	Muzzleloader	Youth	Sept. ((30-Oct. 8)) <u>29-</u> <u>Oct. 7</u>	Antlerless	GMU 209	5
Pogue	Muzzleloader	Youth	Sept. ((30-Oct. 8)) <u>29-</u> <u>Oct. 7</u>	Antlerless	GMU 233	((10)) <u>5</u>
Chiliwist	Muzzleloader	Youth	Sept. ((30-Oct. 8)) <u>29-</u> <u>Oct. 7</u>	Antlerless	GMU 239	((10)) <u>5</u>
Alta	Muzzleloader	Youth	Sept. ((30-Oct. 8)) <u>29-</u> <u>Oct. 7</u>	Antlerless	GMU 242	5
Mission	Muzzleloader	Youth	Sept. ((30-Oct. 8)) <u>29-</u> <u>Oct. 7</u>	Antlerless	GMU 251	3
Whitcomb	Muzzleloader	Youth	Nov. 1-13	Antlerless	Deer Area 3071	5
Paterson	Muzzleloader	Youth	Nov. 1-13	Antlerless	Deer Area 3072	5
Region 5	Modern	Youth with mentor	Aug. 1, ((2017)) <u>2018 -</u> Mar. 31, ((2018)) <u>2019</u>	Antlerless	Designated Areas in Region 5	10 ^{HC}

Senior 65+

Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Sherman	Modern	65+	Oct. 13-26	White-tailed, antlerless	GMU 101	5
Kelly Hill	Modern	65+	Oct. 13-26	White-tailed, antlerless	GMU 105	10
Douglas	Modern	65+	Oct. 13-26	White-tailed, antlerless	GMU 108	10

Senior 65+						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Aladdin	Modern	65+	Oct. 13-26	White-tailed, antlerless	GMU 111	10
Selkirk	Modern	65+	Oct. 13-26	White-tailed, antlerless	GMU 113	15
49 Degrees North	Modern	65+	Oct. 13-26	White-tailed, antlerless	GMU 117	25
Huckleberry	Modern	65+	Oct. 13-26	White-tailed, antlerless	GMU 121	50
Washtucna	Modern	65+	Oct. 13-23	Antlerless	GMUs 139, 142, 284, 381	20
Blue Mtns. Foothills	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMUs 145, 149, 154, 163, Deer Area 1010, 178	30
East Okanogan	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 204	((30)) 5
Wannacut	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 209	5
Sinlahekin	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 215	((15)) 5
Chewuch	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 218	5
Pearrygin	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 224	((10)) 5
Gardner	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 231	5
Pogue	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 233	((20)) 5
Chiliwist	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 239	((15)) 5
Alta	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 242	((15)) 5
Chiwawa	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 245	5
Entiat	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 247	5
Swakane	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 250	5
Mission	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 251	5
Bridgeport	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMUs 248, 260	((10)) 5
Palisades	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMUs 266, 269	((10)) 5
Rattlesnake Hills	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 372	10
Horse Heaven Hills	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 373	10
((Kahlotus	Modern	65+	Oct. 14-24	Antlerless	GMU 384	40))
East Klickitat	Modern	65+	Oct. ((14-24)) 13-23	Antlerless	GMU 382 (except <u>CLOSED</u> in Deer Area 5382)	5
((Graybaek	Modern	65+	Oct. 14-24	Antlerless	GMU 388	5))
North Issaquah	Any	65+	Oct. 13-31 and Nov. 15-18	Antlerless	Deer Area 4541	10
Lincoln	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 501	5
Stella	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 504	5
Mossyrock	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 505	15
Stormking	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 510	5
South Rainier	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 513	5
Packwood	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 516	5
Winston	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 520	5
Yale	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 554	5
Toutle	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 556	10
Lewis River	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 560	5
Washougal	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 568	5
Siouxon	Modern	65+	Oct. ((14-31)) 13-31	Antlerless	GMU 572	5

Senior 65+						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Wind River	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 574	5
West Klickitat	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 578	5
Olympic	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 621	((25)) <u>10</u>
Coyle	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 624	((45)) <u>10</u>
Kitsap	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 627	10
Mason	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 633	((20)) <u>10</u>
((Skokomish	Modern	65+	Oct. 14-31	Antlerless	GMU 636	(40))
Wynoochee	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 648	10
Satsop	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 651	((45)) <u>5</u>
Mashel	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 654	15
North River	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 658	10
Minot Peak	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 660	10
Capitol Peak	Modern	65+	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 663	((45)) <u>12</u>

Hunters with Disabilities						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Washtucna	Modern	Hunter with Dis-ability	Oct. 13-23	Antlerless	GMUs 139, 142, 284, 381	20
Blue Mtns. Foothills	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMUs 145, 149, 154, 163, Deer Area 1010, 178	20
East Okanogan	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 204	((30)) <u>5</u>
Wannacut	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 209	5
Sinlahekin	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 215	((45)) <u>5</u>
Chewuch	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 218	5
Pearrygin	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 224	((10)) <u>5</u>
Gardner	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 231	5
Pogue	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 233	((20)) <u>5</u>
Chiliwist	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 239	((45)) <u>5</u>
Alta	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 242	((45)) <u>5</u>
Chiwawa	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 245	3
Entiat	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 247	3
Mission	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 251	3
Saint Andrews	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 254	5
Bridgeport	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMUs 248, 260	5
Palisades	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMUs 266, 269	5

Hunters with Disabilities						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Beezley	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 272	10
Ritzville	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 284	10
Horse Heaven Hills	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 373	10
Kahlotus	Modern	Hunter with Dis-ability	Oct. 28 - Nov. 5	Antlerless	GMU 381	10
East Klickitat	Modern	Hunter with Dis-ability	Oct. ((14-24)) <u>13-23</u>	Antlerless	GMU 382 (except <u>CLOSED</u> in Deer Area 5382)	5
((Graybaek	Modern	Hunter with Dis-ability	Oct. 14-24	Antlerless	GMU 388	5))
<u>North Issaquah</u>	<u>Any</u>	<u>Hunter with Dis-ability</u>	<u>Oct. 13-31 and Nov. 15-18</u>	<u>Antlerless</u>	<u>Deer Area 4541</u>	<u>10</u>
Green River	Modern	Hunter with Dis-ability	Oct. 20-26	Any buck	GMU 485	5
Lincoln	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 501	2
Stella	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 504	2
Mossyrock	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 505	3
Stormking	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 510	2
South Rainier	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 513	2
Packwood	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 516	2
Winston	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 520	2
Yale	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 554	2
Toutle	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 556	3
Lewis River	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 560	1
Washougal	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 568	5
Siouxon	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 572	2
Wind River	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 574	1
West Klickitat	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 578	2
Olympic	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 621	((15)) 5
Kitsap	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 627	5
Mason	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 633	((10)) 5
Skokomish	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 636	5
Satsop	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 651	5

Hunters with Disabilities						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Mashel	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 654	10
North River	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 658	5
Minot Peak	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 660	5
Capitol Peak	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 663	5
Skookumchuck	Modern	Hunter with Dis-ability	Oct. ((14-31)) <u>13-31</u>	Antlerless	GMU 667	10
Fall River	<u>Modern</u>	<u>Hunter with Dis-ability</u>	<u>Oct. 13-31</u>	<u>Antlerless</u>	<u>GMU 672</u>	<u>5</u>
Fall River	Modern	Hunter with Dis-ability	Nov. ((1-15)) <u>1-14</u>	Any buck	GMU 672	((10)) 6
Wind River	Archery	Hunter with Dis-ability	Sept. ((1-29)) <u>1-28</u>	Antlerless	GMU 574	1
West Klickitat	Archery	Hunter with Dis-ability	Sept. ((1-29)) <u>1-28</u>	Antlerless	GMU 578	1
East Okanogan	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 204	5
Sinlahekin	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 215	5
Gardner	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 231	5
Chiwawa	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 245	3
Entiat	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 247	3
Mission	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 251	3
Saint Andrews	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 254	5
Bridgeport	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMUs 248, 260	5
Palisades	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMUs 266, 269	5
Olympic	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 621	5
Mason	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 633	5
Wynoochee	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 648	5
Mashel	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 654	10
North River	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 658	5
Capitol Peak	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 663	((10)) 8
Skookumchuck	Muzzleloader	Hunter with Dis-ability	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMU 667	10

Master Hunter - Only master hunters may apply. Weapon must be consistent with weapon/tag restriction noted for hunt. Additional weapon restrictions may be conditioned by the hunt coordinator for each hunt. For those hunts requiring the purchase of a master hunter second tag, one deer may be killed in the unit under the authorization of the special permit.

Hunt Name	Weapon/Tag	Requirements	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Region 1	Any/2nd deer tag	Master Hunter deer tag required	Master Hunter	Aug. 1, ((2017)) <u>2018</u> - March 31, ((2018)) <u>2019</u>	Antlerless	Designated Areas in Region 1	30 ^{HC}
Region 1	Archery/2nd deer tag	Master Hunter deer tag required	Master Hunter	Aug. 1, ((2017)) <u>2018</u> - March 31, ((2018)) <u>2019</u>	Antlerless	Designated Areas in Region 1	20 ^{HC}
Region 2	Any/2nd deer tag	Master Hunter deer tag required	Master Hunter	Aug. 1, ((2017)) <u>2018</u> - March 31, ((2018)) <u>2019</u>	Antlerless	Designated Areas in Region 2	10 ^{HC}
Region 3	Any/2nd deer tag	Master Hunter deer tag required	Master Hunter	Aug. 1, ((2017)) <u>2018</u> - March 31, ((2018)) <u>2019</u>	Antlerless	Designated Areas in Region 3	40 ^{HC}
Region 5	Any/2nd deer tag	Master Hunter deer tag required	Master Hunter	Aug. 1, ((2017)) <u>2018</u> - March 31, ((2018)) <u>2019</u>	Antlerless	Designated Areas in Region 5	10 ^{HC}
Region 6	Any/2nd deer tag	Master Hunter deer tag required	Master Hunter	July 1, ((2017)) <u>2018</u> - March 31, ((2018)) <u>2019</u>	Antlerless	Designated Areas in Region 6	((20)) <u>10^{HC}</u>

Hunter Education Instructor Incentive Permits

- Special deer permits will be allocated through a random drawing to those hunter education instructors who qualify.
 - Permit hunters must use archery equipment during archery seasons, muzzleloader equipment or archery equipment during muzzleloader seasons, and any legal weapon during modern firearm seasons. Hunter orange is required during modern firearm seasons.
 - Except for online class incentive permits and chief instructor incentive permits, qualifying hunter education instructors must be certified and have been in active status for a minimum of three consecutive years, inclusive of the year prior to the permit drawing.
 - Permittees may purchase a second license for use with the permit hunt only.
- Qualified hunter education instructors may only receive one incentive permit each year.

Area	Dates	Restrictions	GMUs	Permits
Region 1	All general season and permit seasons established for GMUs included with the permit. Not eligible for seasons and permits for auction hunts; raffle hunts; and hunts for master hunters, youth hunters, hunters with disabilities, or hunters 65 years and older, unless the hunter education instructor legally qualifies for such hunts.	Any white-tailed deer	Any 100 series GMU EXCEPT GMU 157	2
Region 2		Any white-tailed deer	GMUs 204, 215, 233, 239	1
Region 2		Any white-tailed deer	GMUs 218, 224, 231, 242	1
Region 2		Any deer	GMUs 218, 231	1
Region 2		Any deer	GMUs 245, 247	1
Region 2		Any deer	GMU 290	1
Region 3		Any deer	GMUs 335-368	2
Region 4		Any deer	Any 400 series GMU EXCEPT GMUs 485 and 490	2
Region 5		Any deer	((382, 388,)) All 500 series GMUs EXCEPT GMU 522	4
Region 6		Any deer	((GMUs 654, 660, 672, 673, 68+)) Any 600 series GMU	2

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-415-040 Elk area descriptions.

The following areas are defined as elk areas:

Elk Area No. 1008 West Wenaha (Columbia County):

That part of GMU 169 west of USFS trail 3112 from Tepee Camp (east fork of Butte Creek) to Butte Creek, and west of Butte Creek to the Washington-Oregon state line.

Elk Area No. 1009 East Wenaha (Columbia, Garfield, Asotin counties):

That portion of GMU 169 east of USFS trail 3112 from Tepee Camp (east fork Butte Creek) to Butte

Creek, and east of Butte Creek to the Washington-Oregon state line.

Elk Area No. 1010 (Columbia County): GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

Elk Area No. 1011 (Columbia County): That part of GMU 162 east of the North Touchet Road, excluding National Forest land.

Elk Area No. 1012 (Columbia County): That part of GMU 162 west of the North Touchet Road, excluding National Forest land and the Rainwater Wildlife Area.

Elk Area No. 1013 (Asotin County): GMU 172, excluding National Forest lands and the 4-O Ranch Wildlife Area.

Elk Area No. 1015 Turnbull (Spokane County): Located in GMU 130, designated areas within the boundaries of Turnbull National Wildlife Refuge.

Elk Area No. 1016 (Columbia County): GMU-162 Dayton, excluding the Rainwater Wildlife Area.

Elk Area No. 1040 (Asotin County): That area within GMU 172 designated as the WDFW-owned lands managed as the 4-O Ranch Wildlife Area.

Elk Area No. 1075 (Asotin County): Private land (excluding WDFW lands) within GMU 175 within the following area: From the intersection of the South Fork Asotin Creek Rd and Campbell Grade Rd, continuing south until the South Fork Asotin Creek Rd crosses the South Fork of Asotin Creek. South along the South Fork of Asotin Creek until it intersects with the USFS property line, due south along the USFS boundary until it reaches the Cloverland Rd. NE along the Cloverland Rd to the intersection of the Back Rd, north along the Back Rd to Campbell Grade Rd, west on Campbell Grade Rd to the intersection with South Fork Asotin Creek Rd and the point of beginning.

Elk Area No. 1081 (Asotin County): All of GMU 181 Couse, including the portion of GMU 172 starting at the intersection of Mill Road and Highway 129 in Anatone, south along Hwy 129 to Smyth Rd, west and then north on Smyth Rd to the intersection of E Mountain Rd, west along E Mountain Rd to the intersection of W Mountain Rd, north along W Mountain Rd to Mill Road, east on Mill Rd to the starting point.

Elk Area No. 2032 Malaga (Kittitas and Chelan counties): Beginning at the mouth of Davies Canyon on the Columbia River; west along Davies Canyon to the cliffs above (north of) the North Fork Tarpiscan Creek; west and north along the cliffs to the Bonneville Power Line; southwest along the power line to the North Fork Tarpiscan Road in Section 9, Township 20N, Range 21E; north and west along North Fork Tarpiscan Road to Colockum Pass Road (Section 9, Township 20N, Range 21E); south and west on Colockum Pass Road to section line between Sections 8 & 9; north along the section line between Sections 8 and 9 as well as Sections 4 & 5 (T20N, R21E) & Sections 32 & 33 (T21N, R21E) to Moses Carr Road; west and north on Moses Carr Road to Jump Off Road; south and west on Jump Off Road to Shaller Road; north and west on Shaller Road to Upper Basin Loop Road; north and west on Upper Basin Loop Road to Wheeler Ridge Road; north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); north on Basin Loop Road to Wenatchee Heights Road; west on Wenatchee Heights Road to Squilchuck Road; south on Squilchuck Road to Beehive Road (USFS Rd 9712); northwest on Beehive Road to USFS Rd 7100 near Beehive Reservoir; north and west on USFS Rd 7100 to Peavine Canyon Road (USFS Rd 7101); north and east on Peavine Canyon Road to Number Two Canyon Road; north on Number Two Canyon Road to Crawford Street in Wenatchee; east on Crawford Street to the Columbia River; south and east along the Columbia River to

Davies Canyon and point of beginning. (Naneum Green Dot, Washington Gazetteer, Wenatchee National Forest)

Elk Area No. 2033 Peshastin (Chelan County): Starting at the Division St bridge over the Wenatchee River in the town of Cashmere; S on Aplets Way then Division St to Pioneer St; W on Pioneer St to Mission Creek Rd; S on Mission Creek Rd to Binder Rd; W on Binder Rd to Mission Creek Rd; S on Mission Creek Rd to Tripp Canyon Rd; W on Tripp Canyon Rd to where Tripp Canyon Rd stops following Tripp Creek; W on Tripp Creek to its headwaters; W up the drainage, about 1000 feet, to US Forest Service (USFS) Rd 7200-160; W on USFS Rd 7200-160 to Camas Creek Rd (USFS Rd 7200); W on Camas Creek Rd (USFS 7200 Rd) (excluding Camas Land firearm closure*) to US Hwy 97; N on US Hwy 97 to Mountain Home Rd (USFS 7300 Rd); N on Mountain Home Rd to the Wenatchee River in the town of Leavenworth; S on the Wenatchee River to the Division St bridge in Cashmere and the point of beginning.

Elk Area No. 2051 Tronsen (Chelan County): All of GMU 251 except that portion described as follows: Beginning at the junction of Naneum Ridge Road (WDFW Rd 9) and Ingwersol Road (WDFW Rd 1); north and east on Ingwersol Road to Colockum Road (WDFW Rd 10); east on Colockum Road and Colockum Creek to the intersection of Colockum Creek and the Columbia River; south on the Columbia River to mouth of Tarpiscan Creek; west up Tarpiscan Creek and Tarpiscan Road (WDFW Rd 14) and North Fork Road (WDFW Rd 10.10) to the intersection of North Fork Road and Colockum Road; southwest on Colockum Road to Naneum Ridge Road; west on Naneum Ridge Road to Ingwersol Road and the point of beginning.

Elk Area No. 3681 Ahtanum (Yakima County): That part of GMU 368 beginning at the power line crossing on Ahtanum Creek in T12N, R16E, Section 15; west up Ahtanum Creek to South Fork Ahtanum Creek; southwest up South Fork Ahtanum Creek to its junction with Reservation Creek; southwest up Reservation Creek and the Yakama Indian Reservation boundary to the main divide between the Diamond Fork drainage and Ahtanum Creek drainage; north along the crest of the main divide between the Diamond Fork drainage and the Ahtanum Creek drainage to Darland Mountain; northeast on US Forest Service Trail 615 to US Forest Service Road 1020; northeast on US Forest Service Road 1020 to US Forest Service Road 613; northeast on US Forest Service Road 613 to US Forest Service Trail 1127; northeast on US Forest Service Trail 1127 to US Forest Service Road 1302 (Jump Off Road), southeast of the Jump Off Lookout Station; northeast on US Forest Service Road 1302 (Jump Off Road) to Highway 12; northeast on Highway 12 to the Naches River; southeast down the Naches River to Cowiche Creek; west up Cowiche Creek and South Fork Cowiche Creek to Summitview Avenue; northwest on Summitview Avenue to Cowiche Mill Road; west on Cowiche Mill Road to the power line in the northeast corner of T13N, R15E, SEC 13; southeast along the power line to Ahtanum Creek and the point of beginning.

Elk Area No. 3721 Corral Canyon (Benton and Yakima counties): That part of GMU 372 beginning at the Yakima

River Bridge on SR 241 just north of Mabton; north along SR 241 to the Rattlesnake Ridge Road (mile post #19); east on Rattlesnake Ridge Road to the Hanford Reach National Monument's (HRNM) southwest corner boundary; east and south along the HRNM boundary to SR 225; south on SR 225 to the Yakima River Bridge in Benton City; west (upstream) along Yakima River to point of beginning (SR 241 Bridge).

Elk Area No. 3722 Blackrock (Benton and Yakima counties): That part of GMU 372 beginning at southern corner of the Yakima Training Center border on Columbia River, northwest of Priest Rapids Dam; southeast on southern shore of Columbia River (Priest Rapids Lake) to Priest Rapids Dam; east along Columbia River to the Hanford Reach National Monument's (HRNM) western boundary; south along the HRNM boundary to the Rattlesnake Ridge Road; west on Rattlesnake Ridge Road to SR 241; south on SR 241 to the Yakima River Bridge just north of Mabton; west along Yakima River to SR 823 (Harrison Road) south of town of Pomona; east along SR 823 (Harrison Road) to SR 821; southeast on SR 821 to Firing Center Road at I-82; east on Firing Center Road to main gate of Yakima Training Center; south and east along Yakima Training Center boundary to southern corner of Yakima Training Center boundary on Columbia River and point of beginning.

Elk Area No. 3911 Fairview (Kittitas County): Beginning at the intersection of the BPA Power Lines in T20N, R14E, Section 36 and Interstate 90; east along the power lines to Highway 903 (Salmon La Sac Road); northwest along Highway 903 to Pennsylvania Avenue; northeast along Pennsylvania Avenue to No. 6 Canyon Road; northeast along No. 6 Canyon Road to Cle Elum Ridge Road; north along Cle Elum Ridge Road to Carlson Canyon Road; northeast along Carlson Canyon Road to West Fork Teanaway River; east along West Fork Teanaway River to North Fork Teanaway River; north along North Fork Teanaway River to Teanaway Road; southeast on Teanaway Road to Ballard Hill Road; east on Ballard Hill Rd and Swauk Prairie Road to Hwy 970; northeast on Hwy 970 to Hwy 97; south on Hwy 97 to the power lines in T20N, R17E, Section 34; east on the power lines to Naneum Creek; south on Naneum Creek approximately 1/2 mile to power lines in T19N, R19E, Section 20; east along BPA power lines to Colockum Pass Road in T19N, R20E, Section 16; south on Colockum Pass Road to BPA power lines in T18N, R20E, Section 6; east and south along power lines to the Yakima Training Center boundary; south and west along the Yakima Training Center boundary to I-82; north on I-82 to Thrall Road; west on Thrall Road to Wilson Creek; south on Wilson Creek to Yakima River; north on Yakima River to gas pipeline crossing in T17N, R18E, Section 25; south and west on the gas pipeline to Umtanum Creek; west on Umtanum Creek to the Durr Road; north on the Durr Road to Umtanum Road; north on Umtanum Road to South Branch Canal; west on South Branch Canal to Bradshaw/Hanson Road; west on Bradshaw Road to the elk fence; north and west along the elk fence to power line crossing in T19N, R16E, Section 10; west along the power line (south branch) to Big Creek; north on Big Creek to Nelson Siding Road; west and north on Nelson Siding Road to I-90; east on I-90 to point of beginning.

Elk Area No. 3912 Old Naches (Yakima County): Starting at the elk fence and Roza Canal along the south boundary T14N, R19E, Section 8; following the elk fence to the big-horn sheep feeding site in T15N, R16E, Section 36; south on the feeding site access road to the Old Naches Highway; west and south on the Old Naches Highway to State Route 12 and the Naches River; down the Naches River to the Tieton River; up the Tieton River approximately 2 miles to the intersection of the metal footbridge and the elk fence at the south end of the bridge in T14N, R16E, Section 3; south along the elk fence to the top of the cliff/rimrock line; southwest along the top of the cliff/rimrock line to the irrigation canal in T14N, R16E, Section 9; southwest along the irrigation canal to the elk fence in T14N, R16E, Section 8; south along the elk fence to the township line between T12N, R15E and T12N, R16E; south along the township line to the South Fork Ahtanum Creek; downstream along the South Fork Ahtanum Creek and Ahtanum Creek to the Yakima River; upstream along the Yakima River to Roza Canal and point of beginning.

Elk Area No. 4542 South Issaquah (King County): That portion of GMU 454 beginning at SR 164 and SR 18 at the city of Auburn; E and N on SR 18 to Issaquah-Hobart Rd SE; S on 276th Ave SE (Issaquah-Ravensdale Rd) to Landsburg Rd SE; S on Landsburg Rd SE to SE Kent-Kangley Rd; E on SE Kent-Kangley Rd to Retreat-Kanaskat Rd; SE on Retreat-Kanaskat Rd to Cumberland-Kanaskat Rd SE; SW on Cumberland-Kanaskat Rd SE to Veazie Cumberland Rd SE; S on Veazie Cumberland Rd SE to 284th Ave SE; S on 284th Ave SE to SR 410; W on SR 410 to SR 164 at the city of Enumclaw; W on SR 164 to SR 18 at the city of Auburn and the point of beginning.

Elk Area No. 4601 North Bend (King County): That portion of GMU 460 beginning at the interchange of State Route (SR) 18 and I-90; W on I-90 to SE 82nd St, Exit 22, at the town of Preston; N on SE 82nd Street to Preston Fall City Rd SE (Old SR 203); N on Preston Fall City Rd SE to SE Fall City Snoqualmie Rd (SR 202) at the town of Fall City; E on SE Fall City Snoqualmie Rd to the crossing of Tokul Creek; N and E up Tokul Creek to its crossing with Tokul Rd SE; S on SE Tokul Rd to SE 53rd Way; E on SE 53rd Way where it turns into 396th Dr SE then S on 396th Dr SE to SE Reinig Rd; E on SE Reinig Rd to 428th Ave SE; N on 428th Ave SE to where it turns into North Fork Rd SE; N and E on North Fork Rd SE to Ernie's Grove Rd; E on Ernie's Grove Rd to SE 70th St; N on SE 70th St to its ends at Fantastic Falls on the North Fork Snoqualmie River; SW down the North Fork Snoqualmie River to Fantastic Falls and the Mt Si Natural Resource Conservation Area boundary then S and E along the southern boundary of the Mt Si NRCA to the "School Bus" turnaround at SE 114th St; S on 480th Ave SE to SE 130th St; S and E on SE 130th St to its end; SSE overland from the end of SE 130th St, over the Middle Fork Snoqualmie River, to the end of 486th Ave SE; S on 486th Ave SE to the intersection with SE Middle Fork Road; Due S, from said intersection, up Grouse Mountain toward its peak, to the logging road adjacent to Grouse Mountain Peak; S down the logging road to Grouse Ridge Access Rd; W on Grouse Ridge Access Road which becomes SE 146th St; W

on SE 146th St to I-90 then east along I-90 to the W boundary of Olallie/Twin Falls State Park; then ((S)) along the westerly and northerly boundaries of Olallie/Twin Falls/Iron Horse state ((park western boundary to its most western boundary where it intersects with the boundary of the Iron Horse State Park; W along the boundary of Iron Horse State Park)) parks to the boundary of the Rattlesnake Lake Recreation Area; W along the boundary of the Rattlesnake Lake Recreation Area to Cedar Falls Rd SE; N along the Cedar Falls Rd to SE 174th Way; W on SE 174th Way to SE 174th St; W on SE 174th St to SE 173rd St; W on SE 173rd St to SE 170th Pl; W on SE 170th Pl to SE 169th St; W on SE 169th St to 424th Ave SE; N on 424th Ave SE to SE 168th St; W on SE 168th St to 422 Ave SE; N on 422 Ave SE to 426th Way SE; S on 426th Way SE to SE 164th St; E on SE 164th St to Uplands Way SE; W on Uplands Way SE to the crossing with the Power Transmission Lines; W along the Power Transmission Lines to the Winery Rd; NW on the Winery Rd to SE 99th Rd; W and N on SE 99th Rd to the I-90 interchange, at Exit 27; SW on I-90 to the interchange with SR 18 and the point of beginning.

Elk Area No. 4941 Skagit River (Skagit County): That portion of GMU 437 beginning at the intersection of State Route 9 and State Route 20; east on State Route 20 to Concrete-Sauk Valley Road; south on Concrete-Sauk Valley Road over The Dalles Bridge (Skagit River) to the intersection with the South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 and the point of beginning.

Elk Area No. 5029 Toledo (Lewis and Cowlitz counties): Beginning at the Cowlitz River and State Highway 505 junction; east along the Cowlitz River to the Weyerhaeuser 1800 Road; south along Weyerhaeuser 1800 Road to Cedar Creek Road; east along Cedar Creek Road to Due Road; south on Due Road to Weyerhaeuser 1823 Road; south along Weyerhaeuser 1823 Road to the Weyerhaeuser 1945 Road; south along the Weyerhaeuser 1945 Road to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the North Fork Toutle River; west along the North Fork Toutle River to the Toutle River; west on the Toutle River to the Cowlitz River; North along the Cowlitz River to the junction of State Highway 505 and the point of beginning.

Elk Area No. 5049 Ethel (Lewis County): That part of GMU 505 beginning at the intersection of Jackson Highway and Highway 12; south along Jackson Highway to Buckley Road; south on Buckley Road to Spencer Road; east on Spencer Road to Fuller Road; north on Fuller Road to Highway 12; east on Highway 12 to Stowell Road; north on Stowell Road to Gore Road; west on Gore Road to Larmon Road; west on Larmon Road to Highway 12; west on Highway 12 to Jackson Highway and point of beginning.

Elk Area No. 5050 Newaukum (Lewis County): That part of GMU 505 beginning at the intersection of Interstate 5 and Highway 12; east on Highway 12 to Larmon Road; east on Larmon Road to Leonard Road; north on Leonard Road through the town of Onalaska to Deggler Road; north on Deggler Road to Middle Fork Road; east on Middle Fork Road to Beck Road; north on Beck Road to Centralia-Alpha Road; west on Centralia-Alpha Road to Logan Hill Road;

south then west on Logan Hill Road to Jackson Highway; south on Jackson Highway to the Newaukum River; west along the Newaukum River to Interstate 5; south on Interstate 5 to Highway 12 and point of beginning.

Elk Area No. 5051 Green Mountain (Cowlitz County): Beginning at the junction of the Cowlitz River and the Toutle River; east along the Toutle River to the North Fork Toutle River; east along the North Fork Toutle River to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the Weyerhaeuser 1910 Road; south along the Weyerhaeuser 1910 Road to the Weyerhaeuser 2410 Road; south along the Weyerhaeuser 2410 Road to the Weyerhaeuser 4553 Road; south along the Weyerhaeuser 4553 Road to the Weyerhaeuser 4500 Road; south along the Weyerhaeuser 4500 Road to the Weyerhaeuser 4400 Road; south along the Weyerhaeuser 4400 Road to the Weyerhaeuser 4100 Road; east along the Weyerhaeuser 4100 Road to the Weyerhaeuser 4700 Road; south along the Weyerhaeuser 4700 Road to the Weyerhaeuser 4720 Road; west along the Weyerhaeuser 4720 Road to the Weyerhaeuser 4730 Road; west along the Weyerhaeuser 4730 Road to the Weyerhaeuser 4732 Road; west along the Weyerhaeuser 4732 Road to the Weyerhaeuser 4790 Road; west along the Weyerhaeuser 4790 Road to the Weyerhaeuser 1390 Road; south along the Weyerhaeuser 1390 Road to the Weyerhaeuser 1600 Road; west along the Weyerhaeuser 1600 Road to the Weyerhaeuser Logging Railroad Tracks at Headquarters; west along the Weyerhaeuser Logging Railroad Track to Ostrander Creek; west along Ostrander Creek to the Cowlitz River; north along the Cowlitz River to the Toutle River and point of beginning.

Elk Area No. 5052 Mossyrock (Lewis County): Beginning at the intersection of Winston Creek Road and State Highway 12; east on State Highway 12 to the Cowlitz River; east on the Cowlitz River to Riffe Lake; southeast along the south shore of Riffe Lake to Swofford Pond outlet creek; south on Swofford Pond outlet creek to Green Mountain Road; west on Green Mountain Road to Perkins Road; west on Perkins Road to Longbell Road; south on Longbell Road to Winston Creek Road; north on Winston Creek Road to State Highway 12 and the point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 5053 Randle (Lewis County): Beginning at the town of Randle and the intersection of U.S. Highway 12 and State Route 131 (Forest Service 23 and 25 roads); south on State Route 131 to Forest Service 25 Road; south on Forest Service 25 Road to the Cispus River; west along the Cispus River to the Champion 300 line bridge; south and west on the Champion 300 line to the Champion Haul Road; north along the Champion Haul Road to Kosmos Road; north on Kosmos Road to U.S. Highway 12; east on U.S. Highway 12 to Randle and point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 5054 Boistfort (Lewis County): Beginning at the town of Vader; west along State Highway 506 to the Wildwood Road; north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willa-

mette Meridian); northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); west along the Pe Ell/McDonald Road to the Lost Valley Road; northeast along the Lost Valley Road to the Boistfort Road; north along the Boistfort Road to the King Road; east along the King Road to the town of Winlock and State Highway 603; south along Highway 505 to Interstate 5; south along Interstate 5 to State Hwy 506; west along State Hwy 506 to the town of Vader and the point of beginning.

Elk Area No. 5056 Grays River Valley (Wahkiakum County): That area in GMU 506 on or within 1.5 miles of agricultural land in the Grays River Valley and Eden Valley within the following sections: T11N, R08W, Section 36; T11N, R07W, Sections 31, 32, 33; T10N, R7W, Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 28, 29, 30, 31, 32; T10N, R8W, Sections 1, 2, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36; T09N, R08W, Sections 1, 2, 3, 4, 5, 9, 10, 11, 12, 14, 15; T09N, R07W, Sections 5, 6, 7, 8.

Elk Area No. 5057 Carlton (Lewis County): That part of 513 (South Rainier) lying east of Highway 123 and north of Highway 12.

Elk Area No. 5058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the Pacific Crest Trail.

Elk Area No. 5059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness.

Elk Area No. 5060 Merwin (Cowlitz County): Begin at the State Route 503 and the Longview Fibre Road WS-8000 junction; north and west on the Longview Fibre Road WS-8000 to Day Place Road; west on Day Place Road to Dubois Road; south on Dubois Road to State Route 503; east on State Route 503 to the State Route 503 and the Longview Fibre Road WS-8000 junction and point of beginning.

Elk Area No. 5061 Wildwood (Lewis County): Beginning at the junction of the Pacific West Timber (PWT) 600 Road and the Wildwood Road (SE1/4 S29 T11N R3W); southwest on the 600 Road to the 800 Road (NW1/4 S36 T11N R4W); southwest on the 800 Road to the 850 Road (SW1/4 S3 T10N R4W); northwest on the 850 Road to the Weyerhaeuser 4720 Road (S20 T11N R4W); north on the Weyerhaeuser 4720 Road to the Weyerhaeuser 4700 Road (S17 T11N R4W); east on the Weyerhaeuser 4700 Road to the Weyerhaeuser 5822 Road (NW1/4 S16 T11N R4W); east on the Weyerhaeuser 5822 Road to the Weyerhaeuser 5820 Road (NW1/4 S10 T11N R4W); southeast on the Weyerhaeuser 5820 Road to the PWT 574 Road (SE1/4 S10 T11N R4W); south on the PWT 574 Road to the 570 Road (NW1/4 S14 T11N R4W); south on the 570 Road to the 500 Road (NW1/4 S14 T11N R4W); northeast on the 500 Road to the 560 Road (SW1/4 S12 T11N R4W); east on the 560 Road to the 540 Road (SE1/4 S12 T11N R4W); east and south on the 540 Road to the 500 Road (SE1/4 S18 T11N R3W); east on the PWT 500 Road to the Wildwood Road (N1/2 S20 T11N R3W); south on the Wildwood Road to the point of beginning, the PWT 600 Road junction (SE1/4 S29 T11N R3W).

Elk Area No. 5062 Trout Lake (Klickitat County): Those portions of GMU 578 (West Klickitat) beginning at the intersection of SR 141 and Sunnyside Road; north on Sunnyside Road to Mount Adams Recreational Area Road; (including agricultural land on the Trout Lake Valley floor north of Sunnyside Road within T06N R10E in Sections 13 and 14); south on Mount Adams Recreational Area Road to the intersection of SR 141 and south on SR 141 and Sunnyside Road to the point of beginning.

Elk Area No. 5063 Pumice Plain (Cowlitz and Skamania counties): That part of GMU 522 beginning at the confluence of the N. Fork Toutle River and Castle Creek; East along the N. Fork Toutle River to USFS trail 207; south along USFS trail 207 to USFS trail 216E; southwest along USFS trail 216E to USFS trail 216; west along USGS trail 216 to USGS 216G; northwest along USFS trail 216G to USGS trail 221; north along USFS 221 to Castle Creek; northwest along Castle Creek to N. Fork Toutle River and point of beginning.

Elk Area No. 5064 Upper Smith Creek (Skamania County): That part of GMU 522 beginning at the U.S. Forest Service Rd. 99 and U.S. Forest Service Trail 225 (Smith Creek Trail) junction; south on Trail 225 to Ape Canyon Creek; south and west up Ape Canyon Creek to U.S. Forest Service Trail 216 (Loowit Trail); north on Trail 216 to U.S. Forest Service Trail 216D (Abraham Trail); north on Trail 216D to U.S. Forest Service Trail 207 (Truman Trail); north and east on Trail 207 to U.S. Forest Service Rd. 99; north and east on U.S. Forest Service Rd. 99 to the junction of U.S. Forest Service Rd. 99 and U.S. Forest Service Trail 225 and the point of beginning.

Elk Area No. 5065 Mount Whittier (Skamania County): That part of GMU 522 beginning at the U.S. Forest Service Trail 1 (Boundary Trail) and U.S. Forest Service Trail 214 (Whittier Ridge Trail) junction; west on the U.S. Forest Service Trail 1 to U.S. Forest Service Trail 230 (Coldwater Trail); north on U.S. Forest Service Trail 230 to U.S. Forest Service Trail 211 (Lakes Trail); east on Trail 211 to U.S. Forest Service Trail 214; south on U.S. Forest Service Trail 214 to the junction of U.S. Forest Service Trail 214 and U.S. Forest Service Trail 1 and the point of beginning.

Elk Area No. 5066 Norway Pass (Lewis and Skamania counties): That part of GMU 524 beginning at the U.S. Forest Service (USFS) Trail 211 (Lakes Trail) and USFS Trail 230 (Coldwater Trail) junction; NE to Minnie Peak; W to the USFS property boundary in the SE 1/4 of Section 20, T10N, R5E; N along the USFS property boundary to the Green River; E up the Green River to the USFS Rd 2612; E on the USFS Rd 2612 to USFS Rd 26; S on USFS Rd 26 to USFS Trail 1 (Boundary Trail); W on USFS Trail 1 to USFS Trail 214 (Whittier Trail); N on USFS Trail 214 to USFS Trail 211 (Lakes Trail); W on USFS Trail 211 to the USFS Trail 211, Trail 230 junction and point of beginning.

Elk Area No. 5090 JBH (Wahkiakum County): The mainland portion of the Julia Butler Hansen National Wildlife Refuge, as administered by the U.S. Fish and Wildlife Service as described: Beginning at the junction of State Route 4 and Steamboat Island Slough Road, northwest on Steamboat

Island Slough Road to Brooks Slough Road, east on Brooks Slough Road to State Route 4, south on State Route 4 to Steamboat Slough Road and point of beginning.

Elk Area No. 5099 Mudflow (Cowlitz County): That part of GMU 522 beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; SE up the North Fork Toutle River to Deer Creek; SE up Deer Creek to ((~~Weyerhaeuser (Weyeo)~~) Rd 3020 ((line)); NW along ((~~Weyeo~~) 3020 ((line)) to ((~~Weyeo~~) Rd 3000 ((line)); E along ((~~Weyeo~~) Rd 3000 ((line to ~~Weyeo 3000P~~ line; E on the 3000P line to Weyeo 5600 Line to the Mount Saint Helens National Volcanic Monument Boundary; N on the Mount Saint Helens National Volcanic Monument Boundary)) to US Forest Service (USFS) Trail 216G; SE along USFS Trail 216G to USFS Trail 221 (Castle Lake Trail); N on USFS Trail 221 to Castle Creek; N along Castle Creek to the confluence with the North Fork Toutle River; W down the North Fork Toutle River to the North Fork Toutle River, Coldwater Creek confluence; North from the North Fork Toutle River, Coldwater Creek confluence on unnamed ridgeline, to Castle Lake viewpoint on SR 504; W on SR 504 to Hoffstadt Creek Bridge on Hoffstadt Creek; S and W down Hoffstadt Creek to the North Fork Toutle River and point of beginning.

Elk Area No. 6010 Mallis (Pacific County): That part of GMUs 506, 672, and 673 within one and one-half mile either side of SR 6 between the east end of Elk Prairie Rd and the Mallis Landing Rd, and all lands within a half mile of Elk Creek Rd bounded on the south by Monohon Landing Rd.

Elk Area No. 6011 Centralia Mine (Lewis County): That portion of GMU 667 within Centralia Mine property boundary.

Elk Area No. 6013 (Pierce County): That part of GMU 652 beginning at the intersection of Highway 167 and Highway 410; north on Highway 167 to Highway 18; east on Highway 18 to Highway 164; southeasterly on Highway 164 to intersection with power transmission line in T20 R6 Section 18. West along power transmission line to intersection with 226th Ave E. South on 226th Ave East to intersection with 40th St E, east on 40th St E to 230th Ave E, South on 230th Ave E to Radke Road. Southwest on Radke to Barkubine Road, South on Barkubine Road to Connells Prairie; West on Connells Prairie Rd to 214th Ave E, South on 214th Ave E to Highway 410; westerly on Highway 410 to Highway 167 and the point of beginning.

Elk Area No. 6014 (Pierce County): Starting at Highway 164 intersection with power transmission line in T20 R6 Section 18; W along power transmission line to intersection with 226th Ave E; S on 226th Ave ((~~East~~) E to intersection with 40th St E; E on 40th St E to 230th Ave E; S on 230th Ave E to Radke Rd; SW on Radke to Barkubine Rd; S on Barkubine Rd to Connells Prairie; W on Connells Prairie Rd to 214th Ave E; S on 214th Ave E to South Prairie ((~~Road~~) Rd; SE on South Prairie ((~~Road~~) Rd to Highway 162; E on Hwy 162 to Hwy 165; ((~~NE on Hwy 165 to Hwy 410; NE on Hwy 410 to White River; SE along White River to intersection with~~) S on Hwy 165 to the power transmission lines at T19 R6 Section 21, NE along the power transmission lines to the White

~~River, N along the White River to the~~ power transmission lines ((in T19N)) at T19 R7E ((S)); NE on power transmission lines to intersection with Hwy 410 West on SR 410 to Hwy 164; NW on ((Highway)) Hwy 164 to starting point.

Elk Area No. 6054 Puyallup River (Pierce County): That portion of GMU 654 beginning at the intersection of Mount Rainier National Park's western boundary and State Route (SR) 706; W on SR 706 to intersection with Highway 7 at Elbe; NW on Highway 7 to Alder Cutoff Rd; N on Alder Cutoff Rd to Scott Turner Rd; NW on Scott Turner Rd to Alder Cutoff Rd; W and NE on Alder Cutoff Rd to Center St SE in the town of Eatonville; NW on Center St SE to SR 161; N and W on SR 161 to Orville Rd E; N on Orville Rd E, past Lake Ohop and Lake Kapowsin, to the bridge crossing the Puyallup River; SE up the Puyallup River to Mount Rainier National Park's western boundary; S on Mount Rainier National Park's western boundary to SR 706 and the point of beginning.

Elk Area No. 6061 Twin Satsop Farms (Mason County): That portion of GMU 651 starting at the junction of the Deckerville Road and the Brady-Matlock Road; southwest to the junction with the West Boundary Road; north on West Boundary Road to the Deckerville Road; east on the Deckerville Road to the junction of Brady-Matlock Road and point of beginning. In addition, the area within a circle with a radius of two miles centered on the junction of State Route 108 and the Eich Road.

Elk Area No. 6064 Quinault Valley (Grays Harbor and Jefferson counties): That portion of GMU 638 (Quinault) within the Quinault River watershed east of Gatton Creek and Lake Quinault excluding US Forest Service (USFS) Colonel Bob Wilderness Area beginning at the mouth of the Quinault River; NE on the Olympic National Park boundary, which is along the Quinault River, to the intersection with USFS Colonel Bob Wilderness Area; then SW along the Colonel Bob Wilderness Area Western boundary to its intersection with Haas Creek; then downstream along Haas Creek to its intersection with USFS Olympic National Forest boundary; then SW along USFS boundary to the Lake Quinault shoreline; then N along the East shore of Lake Quinault to the mouth of Quinault River and the point of the beginning.

Elk Area No. 6069 Hanaford (Lewis and Thurston counties): That part of GMU 667 (Skookumchuck) beginning at the intersection of Salzer Valley Rd and S Pearl St (Centralia); N on S Pearl St to N Pearl St; N on N Pearl St to State Hwy 507; W and N on State Hwy 507 to Skookumchuck Rd; E on Skookumchuck Rd to the first bridge over the Skookumchuck River; E along the Skookumchuck River to the Skookumchuck Rd bridge; E on Skookumchuck Rd to the steel tower power line; SW along the power line to Big Hanaford Rd; E and S along Big Hanaford Rd to the intersection with the main stem of Hanaford Creek; SE along Hanaford Creek to the range line between Range 1W and Range 1E of Township 14N; S on the range line between Range 1W and Range 1E of Township 14N to Mitchell Creek; SW on Mitchell Creek to the North Fork of the Newaukum River; SW on the North Fork of the Newaukum River to North Fork Rd; W on

North Fork Rd to Centralia-Alpha Rd; W on Centralia-Alpha Rd to Salzer Valley Rd and the point of beginning.

Elk Area No. 6071 Dungeness (Clallam County): Portions of GMUs 621 (Olympic) and 624 (Coyle) beginning at the mouth of the Dungeness River; east and south along the coast of the Strait of Juan de Fuca to the mouth of Dean Creek on Sequim Bay; south and west up Dean Creek to the power transmission line; west on the power transmission line to the Dungeness River; north down the Dungeness River to its mouth and the point of beginning.

Elk Area No. 6612 Forks (Clallam County): That part of GMUs 607 and 612 excluding the city of Forks starting at the confluence of Calawah River and the Bogachiel River upstream to the Hwy 101 Bridge north along Hwy 101 to Sportsman Club Rd; E on Sportsman Club Rd to DNR FR-F-1000; E on DNR FR-F-1000 to DNR FR-F-1200; N on DNR FR-F-1200 to its end; from the end of DNR FR-F-1200 N approximately 500' to Elk Creek; down Elk Creek to its confluence with the Calawah River; down the Calawah River to its confluence with the Bogachiel River.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-415-050 ((2015-2017)) 2018-2020 Elk general seasons and definitions. It is unlawful to fail to comply with bag, possession, and season limits described below. A violation of this section is punishable under RCW 77.15.410 Unlawful hunting of big game—Penalty.

Bag Limit: One (1) elk per hunter during the license year, except where otherwise permitted by department rule. Any combination of seasons, tags, and permits set by the department will not exceed a maximum of two (2) elk per hunter during the license year.

Hunting Method: Elk hunters must select only one of the hunting methods: Modern firearm, archery, or muzzleloader.

Elk Tag Areas: Elk hunters must choose either Eastern or Western Washington to hunt in and buy the appropriate tag for that area.

Any Bull Elk Seasons: Open only to the taking of elk with visible antlers; bull calves are illegal.

Antler Point: To qualify as an antler point, the point must be at least one inch long, measured on the longest side.

Branch: A branch is defined as any projection off the main antler beam that is at least one inch long, measured on the longest side, and longer than it is wide.

Spike Bull Antler Restrictions: Bull elk taken in spike-only game management units (GMUs) must have at least one antler with no branches originating more than 4 inches above where the antler attaches to the skull.

Spike-only GMUs: 145-154, 162-186, 249, and 336-368.

True Spike - Bull Antler Restrictions: Neither antler of bull elk taken in GMUs 251, and 328-335 can have branching originating more than 4 inches above where the antlers attach to the skull. Under the true-spike restriction, taking an elk that has two points on one side or antler points within one inch of the definitions regarding length of point, or point of origination, is an infraction under RCW 77.15.160. All other types of violations of the true-spike restriction are subject to current penalties and assessments under RCW 77.15.410 and 77.15.420.

True-spike GMUs: 251, 328-335.

3-point Antler Restrictions: Legal bull elk must have at least 3 antler points on one side((, with at least 2 antler points above the ear)). Eye guards are antler points when they are at least one inch long. Antler restrictions apply to all hunters during any open season.

3-point GMUs: All of Western Washington, except for GMUs 448, 454, 564, 652 for archers, 666, 684, and Elk Area 4941.

Permit-only Units: The following GMUs are closed to elk hunting during general elk seasons: 157, 371, 418, 485, 522, 556, 621, 636, and 653.

GMUs Closed to Elk Hunting: 437 (except for Elk Area 4941) and 490.

Areas with Special Restrictions: There are modern firearm restrictions in GMU 334 and portions of GMU 660. GMU 554 is open only for early archery and muzzleloader seasons. Elk Area 6064 in GMU 638 (Quinault) is open to master hunters only.

Elk Tag Areas

Eastern Washington: All 100, 200, and 300 GMUs.

EA - Eastern Washington Archery Tag

EF - Eastern Washington Modern Firearm General Elk Tag

EM - Eastern Washington Muzzleloader Tag

Western Washington: All 400, 500, and 600 GMUs.

WA - Western Washington Archery Tag

WF - Western Washington Modern Firearm General Elk Tag

WM - Western Washington Muzzleloader Tag

Modern Firearm General Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: A valid modern firearm elk tag as listed below for the area hunted.

Hunting Method: May use modern firearm, bow and arrow, crossbow, or muzzleloader, but only during modern firearm seasons.

Hunt Area	Elk Tag Area	Game Management Units (GMUs)	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Legal Elk	
Eastern Washington	EF	101, 105, 108, 111, 113, 117, 121, 204	((Oct. 31 – Nov. 8)) Oct. 27 - Nov. 4	((Oct. 29 – Nov. 6)) Oct. 26 - Nov. 3	((Oct. 28 – Nov. 5)) Oct. 31 - Nov. 8	Any bull	
		145 through 154, 162 through 169, 172 (except Elk Area 1040), 175 through 186, 249, 336 through 368	((Oct. 31 – Nov. 8)) Oct. 27 - Nov. 4	((Oct. 29 – Nov. 6)) Oct. 26 - Nov. 3	((Oct. 28 – Nov. 5)) Oct. 31 - Nov. 8	Spike bull	
		251, 328, 329, 334, 335	((Oct. 31 – Nov. 8)) Oct. 27 - Nov. 4	((Oct. 29 – Nov. 6)) Oct. 26 - Nov. 3	((Oct. 28 – Nov. 5)) Oct. 31 - Nov. 8	True spike bull	
		Elk Area 3722*	Sept. 8-23	Sept. 7-22	Sept. ((6-21)) 5-20	Antlerless only	
		124 through 142, 372, 382, 388	((Oct. 31 – Nov. 8)) Oct. 27 - Nov. 4	((Oct. 29 – Nov. 6)) Oct. 26 - Nov. 3	((Oct. 28 – Nov. 5)) Oct. 31 - Nov. 8	Any elk	
		203, 209 through 248, 250, 254 through 290, 373, 379, 381	Oct. ((24)) 27 - Nov. 15	Oct. ((29)) 26 - Nov. 15	Oct. ((28)) 31 - Nov. 15	Any elk	
		Master Hunters Only: 371, Elk Areas 3911 and 3912. Must wear hunter orange.	Aug. 1 - Jan. 20, ((2016)) 2018	Aug. 1 - Jan. 20, ((2017)) 2019	Aug. 1 - Jan. 20, ((2018)) 2020	Antlerless only	
		((Master Hunters Only: Elk Area 3911**	Nov. 14 – Dec. 15	Nov. 12 – Dec. 15	Nov. 11 – Dec. 15	Antlerless only	
		Master Hunters Only: Elk Area 3911** 2nd tag.	Aug. 1 – Oct. 30	Aug. 1 – Oct. 28	Aug. 1 – Oct. 27	Antlerless only))	
		Master Hunters Only: 127, 130	Dec. 9-31	Dec. 9-31	Dec. 9-31	Antlerless only	
*GMU 372 and Elk Area 3722 are mainly private property. Hunters are not advised to try hunting these areas without making prior arrangements for access.							
((**Master hunters who hunt in Elk Area 3911 during the August to October early master hunter season must purchase a master hunter, Elk Area 3911, second elk transport tag. Only master hunters with an eastside elk tag can purchase this tag. Elk Area 3911 second elk transport tags will be valid only for Elk Area 3911 from August 1 – October 30, 2015, August 1 – October 28, 2016, and August 1 – October 27, 2017. Only one antlerless elk may be taken from Elk Area 3911, unless drawn for an antlerless elk special permit. Master hunters who hunt in Elk Area 3911 during the November to December late master hunter season may use their unused general season elk tag, but are not eligible to use an Elk Area 3911, master hunter, second elk transport tag. Any legal weapon may be used during either master hunter Elk Area 3911 hunt. All master hunters participating in an Elk Area 3911 hunt must wear hunter orange.))							
Western Washington	WF	460, 466, 503, 505 through 520, 524 (except <u>CLOSED</u> in Elk Area 5066), 530, 550, 560, 568, 572, 574, 578, 601 through 618, 624 (except for Elk Area 6071), 627, 633, 638 (except master hunters only in Elk Area 6064 portion of GMU 638), 642 through 651, 652 (except for Elk Area 6014), 654 through 660, 666 through 684. ((Except master hunters only in Elk Area 6064 portion of GMU 638.))	Nov. ((7-18)) 3-14	Nov. 5-16	Nov. 4-15	3 pt. min.	
		501, 504, <u>663</u> , Elk Area 6014	Nov. ((7-18)) 3-14	Nov. ((5-16)) 2-13	Nov. ((4-15)) 7-18	3 pt. min. or antlerless	
		407, 448, 564, 666	Nov. ((7-18)) 3-14	Nov. ((5-16)) 2-13	Nov. ((4-15)) 7-18	Any elk	
		454	Nov. ((7-18)) 3-14	Nov. ((5-16)) 2-13	Nov. ((4-15)) 7-18	Any bull	

Archery General Elk Seasons**License Required:** A valid big game hunting license with an elk tag option.**Tag Required:** A valid archery elk tag as listed below for the area hunted.**Hunting Method:** Bow and arrow only, as defined under WAC 220-414-070.**Special Notes:** Archery tag holders can hunt only during archery seasons and must hunt with archery equipment (WAC 220-414-070). Archery elk hunters may apply for special bull permits. Please see permit table for tag eligibility for all elk permits.

Hunt Area	Elk Tag Area	Game Management Units (GMUs)	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Legal Elk
Early Archery General Elk Seasons						
Eastern Washington	EA	101 through 142, 204, 243, 247, 249, 250, 373, 379, 381, 388	Sept. ((12-24)) <u>8-20</u>	Sept. ((10-22)) <u>7-19</u>	Sept. ((9-21)) <u>12-24</u>	Any elk
		162, 166, 169, 172 (except Elk Area 1040), <u>175</u> , <u>186</u> , 336, 340, 352, 356, 364	Sept. ((12-24)) <u>8-20</u>	Sept. ((10-22)) <u>7-19</u>	Sept. ((9-21)) <u>12-24</u>	Spike bull
		328, 329, ((335))	Sept. ((12-24)) <u>8-20</u>	Sept. ((10-22)) <u>7-19</u>	Sept. ((9-21)) <u>12-24</u>	True spike bull (or antlerless)
		<u>334, 335</u>	<u>Sept. 8-20</u>	<u>Sept. 7-19</u>	<u>Sept. 12-24</u>	True spike bull or antlerless
		145, 149, 154, Elk Area 1010, Elk Area 1013, 163, ((175,)) 178, 181, ((334, 336, 340, 352, 356, 364))	Sept. ((12-24)) <u>8-20</u>	Sept. ((10-22)) <u>7-19</u>	Sept. ((9-21)) <u>12-24</u>	Spike bull or antlerless
Western Washington	WA	448, 454, 564, 652 (except Elk area 6013), 666, 684	Sept. ((12-24)) <u>8-20</u>	Sept. ((10-22)) <u>7-19</u>	Sept. ((9-21)) <u>12-24</u>	Any elk
		407	Sept. ((12-24)) <u>8-20</u>	Sept. ((10-22)) <u>7-19</u>	Sept. ((9-21)) <u>12-24</u>	Any elk
		501 through 505, 520, 550, 554, 560, 568, 572, 574, 578, ((624 (except for Elk Area 6071,)) Elk Area 6061, 654, 660, 667 through 673, 681, 699	Sept. ((12-24)) <u>8-20</u>	Sept. ((10-22)) <u>7-19</u>	Sept. ((9-21)) <u>12-24</u>	3 pt. min. or antlerless
		460, 466, 506, 510, 513, 516, 524 (except <u>CLOSED</u> in Elk Area 5066), 530, 601 through 618, <u>624</u> (except for Elk Area 6071), 627, 633, 638 (except Master Hunters only in Elk Area 6064), 642 through 651, 658, 663	Sept. ((12-24)) <u>8-20</u>	Sept. ((10-22)) <u>7-19</u>	Sept. ((9-21)) <u>12-24</u>	3 pt. min.
Late Archery General Elk Seasons						
Eastern Washington	EA	101, 105, 108, 117, 121, 204	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Any bull
		124, 127, 373, 388	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Any elk
		178	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Antlerless only
		Elk Area 1010, 163	Dec. 9 - Jan. 30, 2016	Dec. 9 - Jan. 30, 2017	Dec. 9 - Jan. 30, 2018	Antlerless only
		203, 209 through 248, 250, 254 through 290, 379, 381. Must wear hunter orange.	Oct. ((34)) <u>27</u> - Nov. 15	Oct. ((29)) <u>26</u> - Nov. 15	Oct. ((28)) <u>31</u> - Nov. 15	Any elk
		Master Hunters Only: 371, Elk Areas <u>3911</u> and <u>3912</u> . Must wear hunter orange.	Aug. 1 - Jan. 20, ((2016)) <u>2018</u>	Aug. 1 - Jan. 20, ((2017)) <u>2019</u>	Aug. 1 - Jan. 20, ((2018)) <u>2020</u>	Antlerless only
		((Master Hunters Only: Elk Area <u>3911</u> **. Must wear hunter orange.))	Nov. 14 - Dec. 15	Nov. 12 - Dec. 15	Nov. 11 - Dec. 15	Antlerless only
		Master Hunters Only: Elk Area <u>3911</u> ** 2nd tag. Must wear hunter orange.	Aug. 1 - Oct. 30	Aug. 1 - Oct. 28	Aug. 1 - Oct. 27	Antlerless only
		Master Hunters Only: 127, 130	Dec. 9-31	Dec. 9-31	Dec. 9-31	Antlerless only
		328, 334, 335	Nov. ((25)) <u>21</u> - Dec. 8	Nov. ((23)) <u>27</u> - Dec. 8	Nov. ((22)) <u>25</u> - Dec. 8	True spike bull or antlerless
		336, 342, 346, 352, 364, Elk Area 3681	Nov. ((25)) <u>21</u> - Dec. 8	Nov. ((23)) <u>27</u> - Dec. 8	Nov. ((22)) <u>25</u> - Dec. 8	Spike bull or antlerless

Hunt Area	Elk Tag Area	Game Management Units (GMUs)	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Legal Elk	
Western Washington	WA	Elk Area 4601, 503, 505, 506, 530, 652 (except Elk Area 6013), 663, 667, 672, 681, and 699. Master hunters only in Elk Area 6064 portion of GMU 638.	Nov. ((25)) 21 - Dec. 15	Nov. ((23)) 27 - Dec. 15	Nov. ((22)) 25 - Dec. 15	3 pt. min. or antlerless	
		407	Nov. 21 - Jan 20, 2019	Nov. 27 - Jan 20, 2020	Nov. 25 - Jan 20, 2021	Any elk	
		((407,)) 448, 454, 564, 666	Nov. ((25)) 21 - Dec. 15	Nov. ((23)) 27 - Dec. 15	Nov. ((22)) 25 - Dec. 15	Any elk	
		603, 612, 615, 638 (except for Elk Area 6064), 648	Nov. ((25)) 21 - Dec. 15	Nov. ((23)) 27 - Dec. 15	Nov. ((22)) 25 - Dec. 15	3 pt. min.	
		((506, 520, 530))	Nov. ((25)) 21 - Dec. 15	Nov. ((23)) 27 - Dec. 15	Nov. ((22)) 25 - Dec. 15	Antlerless only	
*GMU 372 and Elk Area 3722 are mainly private property. Hunters are not advised to try hunting these areas without making prior arrangements for access.							
((**Master hunters who hunt in Elk Area 3911 during the August to October early master hunter season must purchase a master hunter, Elk Area 3911, second elk transport tag. Only master hunters with an eastside elk tag can purchase this tag. Elk Area 3911 second elk transport tags will be valid only for Elk Area 3911 from August 1 – October 30, 2015, August 1 – October 28, 2016, and August 1 – October 27, 2017. Only one antlerless elk may be taken from Elk Area 3911, unless drawn for an antlerless elk special permit. Master hunters who hunt in Elk Area 3911 during the November to December late master hunter season may use their unused general season elk tag, but are not eligible to use an Elk Area 3911, master hunter, second elk transport tag. Any legal weapon may be used during either master hunter Elk Area 3911 hunt. All master hunters participating in an Elk Area 3911 hunt must wear hunter orange.))							

Muzzleloader General Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: A valid muzzleloader elk tag as listed below for the area hunted.

Hunting Method: Muzzleloader, as defined under WAC 220-414-060, or bow and arrow, as defined under WAC 220-414-070.

Special Notes: Muzzleloader tag holders can only hunt during the muzzleloader seasons. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Hunt Area	Elk Tag Area	Game Management Units (GMUs)	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Legal Elk
Early Muzzleloader General Elk Seasons						
Eastern Washington	EM	101 through 121, 204, 247	Oct. ((3-9)) 6-12	Oct. ((4-7)) 5-11	Oct. ((7-13)) 3-9	Any bull
		124 through 142, 245, 250	Oct. ((3-9)) 6-12	Oct. ((4-7)) 5-11	Oct. ((7-13)) 3-9	Any elk
		145, 149, 154, 162, 163, 166, 172 (except Elk Area 1040), 175, 178, 181, 336 through 342, 352 through 368	Oct. ((3-9)) 6-12	Oct. ((4-7)) 5-11	Oct. ((7-13)) 3-9	Spike bull
		328, 329, 334, 335, Elk Area 2051	Oct. ((3-9)) 6-12	Oct. ((4-7)) 5-11	Oct. ((7-13)) 3-9	True spike bull
Western Washington	WM	407	Oct. ((3-9)) 6-12	Oct. ((4-7)) 5-11	Oct. ((7-13)) 3-9	Any elk
		Elk Area 4601	Oct. ((3-9)) 6-12	Oct. ((4-7)) 5-11	Oct. ((7-13)) 3-9	3 pt. min. or antlerless
		448, 454, 564, 666, 684	Oct. ((3-9)) 6-12	Oct. ((4-7)) 5-11	Oct. ((7-13)) 3-9	Any elk
		460, 466, 505, 506, 510, 513, 516, 520, 524 (except CLOSED in Elk Area 5066), 530, 550, 554, 560, 568, 572, 574, 578, 602, 603, 607, 612, 615, 624 (except for Elk Area 6071), 627, 633, 638 (except for Elk Area 6064), 642, 648, 660, ((663,)) 672, 673, 681	Oct. ((3-9)) 6-12	Oct. ((4-7)) 5-11	Oct. ((7-13)) 3-9	3 pt. min.

Hunt Area	Elk Tag Area	Game Management Units (GMUs)	((2015)) 2018 Dates	((2016)) 2019 Dates	((2017)) 2020 Dates	Legal Elk
		501, 503, 504, 652 (except Elk Area 6013 closed to antlerless), 654, 663, 667	Oct. ((3-9)) 6-12	Oct. ((4-7)) 5-11	Oct. ((7-13)) 3-9	3 pt. min. or antlerless
Late Muzzleloader General Elk Seasons						
Eastern Washington	EM	130 through 142	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Nov. 25 - Dec. 8	Any elk
		203, 209 through 248, 250, 254 through 290, 373, 379, 381. Must wear hunter orange.	Oct. ((34)) 27 - Nov. 15	Oct. ((29)) 26 - Nov. 15	Oct. ((28)) 31 - Nov. 15	Any elk
		Master Hunters Only: 371, Elk Areas 3911 and 3912. Must wear hunter orange.	Aug. 1 - Jan. 20, ((2016)) 2018	Aug. 1 - Jan. 20, ((2017)) 2019	Aug. 1 - Jan. 20, ((2018)) 2020	Antlerless only
		((Master Hunters Only: Elk Area 3911**) Must wear hunter orange.)	Nov. 14 - Dec. 15	Nov. 12 - Dec. 15	Nov. 11 - Dec. 15	Antlerless only
		Master Hunters Only: Elk Area 3911** 2nd tag. Must wear hunter orange.	Aug. 1 - Oct. 30	Aug. 1 - Oct. 28	Aug. 1 - Oct. 27	Antlerless-only))
		Master Hunters Only: 127, 130	Dec. 9-31	Dec. 9-31	Dec. 9-31	Antlerless only
Western Washington	WM	407	((Nov. 25 - Dec. 15)) Nov. 21 - Jan. 20, 2019	((Nov. 23 - Dec. 15)) Nov. 27 - Jan. 20, 2020	((Nov. 22 - Dec. 15)) Nov. 25 - Jan. 20, 2021	((3 pt. min. or antlerless)) Any elk
		501, 503, 504, 505, 578, 652 (except Elk Area 6013 closed to antlerless).	Nov. ((25)) 21 - Dec. 8	Nov. ((23)) 27 - Dec. 8	Nov. ((22)) 25 - Dec. 8	3 pt. min. or antlerless
		448, 454, 564, 666, 684	Nov. ((25)) 21 - Dec. 15	Nov. ((23)) 27 - Dec. 15	Nov. ((22)) 25 - Dec. 15	Any elk
		568, 574((,-578))	Nov. ((25-30)) 21-30	Nov. ((23-30)) 27-30	Nov. ((22-30)) 25-30	3 pt. min.
		601, 618, 651, 658, 667	Nov. ((25)) 21 - Dec. 15	Nov. ((23)) 27 - Dec. 15	Nov. ((22)) 25 - Dec. 15	3 pt. min.
		((**Master hunters who hunt in Elk Area 3911 during the August to October early master hunter season must purchase a master hunter, Elk Area 3911, second elk transport tag. Only master hunters with an eastside elk tag can purchase this tag. Elk Area 3911 second elk transport tags will be valid only for Elk Area 3911 from August 1 - October 30, 2015, August 1 - October 28, 2016, and August 1 - October 27, 2017. Only one antlerless elk may be taken from Elk Area 3911, unless drawn for an antlerless elk special permit. Master hunters who hunt in Elk Area 3911 during the November to December late master hunter season may use their unused general season elk tag, but are not eligible to use an Elk Area 3911, master hunter, second elk transport tag. Any legal weapon may be used during either master hunter Elk Area 3911 hunt. All master hunters participating in an Elk Area 3911 hunt must wear hunter orange.))				

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-415-060 ((2017)) 2018 Elk special permits. It is unlawful to fail to comply with the bag, possession, and season limits described below. A violation of this section is punishable under RCW 77.15.410 Unlawful hunting of big game—Penalty.

Special Elk Permit Hunting Seasons (Open to Permit Holders Only)

Hunters must purchase an elk hunting license prior to purchasing a permit application. Hunters may only apply for permits consistent with the tag required for the hunt choice; however, Multiple Season Permit holders may apply for Eastern or Western Washington archery, muzzleloader, or modern firearm permit hunts. Applicants must have purchased the proper tag for these hunts. The elk tag prefixes required to apply for each hunt are shown in the following table. Hunters drawn for a special permit hunt must comply with weapon restrictions, dates, and other conditions listed for the hunt. Hunters drawn for a special permit designated "Any tag" under the "Weapon/Tag" restriction must use equipment consistent with the requirements of their transport tag and license.

Quality						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Turnbull	EA, EF, EM	Any	((Oct. 1-15 and Nov. 9 - Dec. 6)) Oct. 1-6 and Nov. 9-30	Any bull	Elk Area 1015	1

Quality						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
((Preseott	EF	Any	Sept. 25-29	Any bull	GMU 149	4))
Prescott	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	GMU 149	2
Blue Creek	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMU 154	1
Blue Creek	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	GMU 154	((6)) 10
Watershed	EA, EF, EM	Any	Oct. ((23—Nov. 5)) 27 - Nov. 4	3 pt. min.	GMU 157	40
Dayton	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	GMU 162	((14)) 10
Ten Ten	EF	Any	Sept. ((25-29)) 24-28	Any bull	Elk Area 1010, GMU 163	1
Ten Ten	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	Elk Area 1010, GMU 163	4
Tucannon	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	GMU 166	14
Wenaha West	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	Elk Area 1008	((9)) 8
Wenaha East	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	Elk Area 1009	((10)) 12
Mountain View	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	GMU 172, EXCEPT Elk Area 1040	((16)) 19
Ten Forty	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	Elk Area 1040	2
Lick Creek	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	GMU 175	((6)) 4
Peola	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMU 178	1
Peola	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	GMU 178	1
Couse	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	GMU 181	((3)) 2
Mission	EF	Any	Sept. ((23-29)) 22-28	Any bull	GMU 251	3
Colockum	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMUs 328, 329	1
Colockum	EF	Any	Oct. ((23—Nov. 5)) 22 - Nov. 4	Any bull	GMUs 328, 329	22
Teanaway	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMU 335	2
Peaches Ridge	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMUs 336, 346	3
Observatory	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMUs 340, 342	3
Little Naches	EF	Any	((Sept. 30—Oct. 8)) Sept. 29 - Oct. 7	Any bull	GMU 346	10
Goose Prairie	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMUs 352, 356	5
Bethel	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMU 360	3
Rimrock	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMU 364	3
Cowiche	EF	Any	Sept. ((25-29)) 24-28	Any bull	GMU 368	3
Nooksack	WF	Any	((Oct. 7—Nov. 17)) Oct. 6-31 and Dec. 17-31	Any bull	GMU 418 ((and Elk Area 4941))	((12)) TBD
Green River	WF	Any	((Nov. 4-10)) Oct. 20-26	Any bull	GMU 485	8
Wahkiakum	WF	Any	Sept. ((25-29)) 24-28	Any bull	GMUs 506, 530	1
South Rainier	WF	Any	Sept. ((25-29)) 24-28	Any bull	GMUs 510, 513	1
Packwood	WF	Any	Sept. ((25-29)) 24-28	Any bull	GMU 516	1
Winston	WF	Any	Sept. ((25-29)) 24-28	Any bull	GMU 520	1
Coweeman	WF	Any	Sept. ((25-29)) 24-28	Any bull	GMU 550	1
Toutle	WF	Any	Sept. ((25-29)) 24-28 and Nov. ((4-15)) 3-14	Any bull	GMU 556	3
Toutle	WF	Any	Nov. ((4-15)) 3-14	Any bull	GMU 556	46

Quality						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Lewis River	WF	Any	Sept. ((25-29)) <u>24-28</u>	Any bull	GMU 560	2
Siouxon	WF	Any	Sept. ((25-29)) <u>24-28</u>	Any bull	GMU 572	2
Carlton	WF	Any	Sept. ((25-29)) <u>24-28</u>	Any bull	Elk Area 5057	5
West Goat Rocks	WF	Any	Sept. ((25-29)) <u>24-28</u>	Any bull	Elk Area 5058	5
<u>Upper Smith Creek</u>	<u>WF</u>	<u>Any</u>	<u>Sept. 24-28</u>	<u>Any bull</u>	<u>Elk Area 5064</u>	<u>1</u>
Mount Whittier	WF	Any	Sept. 24-28	Any bull	Elk Area 5065	1
Norway Pass	WF	Any	Sept. 24-28	Any bull	Elk Area 5066	2
Mt. Adams	WF	Any	Sept. ((25-29)) <u>24-28</u>	Any bull	Elk Area 5059	5
Mudflow	WF	Any	Nov. ((4-15)) <u>3-14</u>	Any bull	Elk Area 5099	((5)) 7
Peninsula	WF	Any	Sept. ((25-29)) <u>24-28</u>	3 pt. min.	GMUs 602, <u>603</u> , 607, 612, <u>615</u>	((+)) 4
((Clearwater	WF	Any	Sept. 25-29	3 pt. min.	GMU 615	2))
Matheny	WF	Any	Sept. ((25-29)) <u>24-28</u>	3 pt. min.	GMU 618	3
Quinault	WF	Any	Sept. ((25-29)) <u>24-28</u>	3 pt. min.	GMU 638	5
Wynoochee	WF	Any	Sept. ((25-29)) <u>24-28</u>	3 pt. min.	GMU 648	1
White River	WF	Any	Sept. ((25-29)) <u>24-28</u>	Any bull	GMU 653	2
Prescott	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	GMU 149	1
Blue Creek	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	GMU 154	((6)) 8
Dayton	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	GMU 162	((7)) 6
Ten Ten	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	Elk Area 1010, GMU 163	((4)) 8
Tucannon	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	GMU 166	((6)) 12
Wenaha West	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	Elk Area 1008	((3)) 2
Wenaha East	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	Elk Area 1009	((4)) 5
Mountain View	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	GMU 172, EXCEPT Elk Area 1040	((14)) 12
Ten Forty	EA	Any	Sept. ((11-24)) <u>10-23</u>	Any bull	Elk Area 1040	2
Lick Creek	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	GMU 175	((13)) 4
Peola	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	GMU 178	((2)) 1
Couse	EA	Any	Sept. ((2-24)) <u>1-20</u>	Any bull	GMU 181	2
Colockum	EA	Any	Sept. ((9-24)) <u>8-20</u>	Any bull	GMUs 328, 329	13
Teanaway	EA	Any	Sept. ((9-24)) <u>8-20</u>	Any bull	GMU 335	4
Peaches Ridge	EA	Any	Sept. ((9-24)) <u>8-20</u>	Any bull	GMUs 336, 346	104
Observatory	EA	Any	Sept. ((9-24)) <u>8-20</u>	Any bull	GMUs 340, 342	104
Goose Prairie	EA	Any	Sept. ((9-24)) <u>8-20</u>	Any bull	GMUs 352, 356	109
Bethel	EA	Any	Sept. ((9-24)) <u>8-20</u>	Any bull	GMU 360	66
Rimrock	EA	Any	Sept. ((9-24)) <u>8-20</u>	Any bull	GMU 364	85
Cowiche	EA	Any	Sept. ((9-24)) <u>8-20</u>	Any bull	GMU 368	21
Nooksack	WA	Any	((Aug. 28 - Sept. 16 and Dec. 1-31)) Aug. 27 - Sept. 15 and Jan. 1-18, 2019	Any bull	GMU 418 ((and Elk Area 4941))	((7)) TBD
Toutle	WA	Any	Sept. ((9-24)) <u>8-20</u> and Dec. 1-15	Any bull	GMU 556	34
Upper Smith Creek	WA	Any	Sept. 16-22	Any bull	Elk Area 5064	1

Quality						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Norway Pass	WA	Any	Sept. 8-14	Any bull	Elk Area 5066	2
Mudflow	WA	Any	Sept. ((15-21)) 15-23 and Nov. 16-21	Any bull	Elk Area 5099	((5)) 7
Peninsula	WA	Any	Sept. 1-23	3 pt. min.	GMUs 602, 603, 607, 612, 615	2
White River	WA	Any	Sept. ((9-21)) 8-20	Any bull	GMU 653	19
Prescott	EM	Any	Oct. ((4-13)) 1-12	Any bull	GMU 149	1
Blue Creek	EM	Any	Oct. ((4-13)) 1-12	Any bull	GMU 154	((2)) 3
Dayton	EM	Any	Oct. ((4-13)) 1-12	Any bull	GMU 162	((5)) 2
Ten Ten	EM	Any	Oct. ((4-13)) 1-12	Any bull	Elk Area 1010, GMU 163	1
Tucannon	EM	Any	Oct. ((4-13)) 1-12	Any bull	GMU 166	3
Wenaha West	EM	Any	Oct. ((4-13)) 1-12	Any bull	Elk Area 1008	2
Wenaha East	EM	Any	Oct. ((4-13)) 1-12	Any bull	Elk Area 1009	((4)) 2
Mountain View	EM	Any	Oct. ((4-13)) 1-12	Any bull	GMU 172, EXCEPT Elk Area 1040	((5)) 9
Ten Forty	EM	Any	((Sept. 30 - Oct. 8)) Oct. 1-12	Any bull	Elk Area 1040	2
Lick Creek	EM	Any	Oct. ((4-13)) 1-12	Any bull	GMU 175	((2)) 1
Peola	EM	Any	Oct. ((4-13)) 1-12	Any bull	GMU 178	1
Couse	EM	Any	Oct. ((4-13)) 1-12	Any bull	GMU 181	1
Mission	EM	Any	((Oct. 1-10)) Sept. 30 - Oct. 9	Any bull	GMU 251	3
Colockum	EM	Any	Sept. ((30 - Oct. 8)) 29 - Oct. 7	Any bull	GMUs 328, 329	7
Teanaway	EM	Any	Sept. ((30 - Oct. 8)) 29 - Oct. 7	Any bull	GMU 335	2
Peaches Ridge	EM	Any	Sept. ((30 - Oct. 8)) 29 - Oct. 7	Any bull	GMUs 336, 346	33
Observatory	EM	Any	Sept. ((30 - Oct. 8)) 29 - Oct. 7	Any bull	GMUs 340, 342	27
Goose Prairie	EM	Any	Sept. ((30 - Oct. 8)) 29 - Oct. 7	Any bull	GMUs 352, 356	24
Bethel	EM	Any	Sept. ((30 - Oct. 8)) 29 - Oct. 7	Any bull	GMU 360	20
Rimrock	EM	Any	Sept. ((30 - Oct. 8)) 29 - Oct. 7	Any bull	GMU 364	10
Cowiche	EM	Any	Sept. ((30 - Oct. 8)) 29 - Oct. 7	Any bull	GMU 368	5
Nooksack	WM	Any	((Sept. 20 - Oct. 1 and Nov. 18-29)) Sept. 19-30 and Nov. 16-25, and Dec. 1-9	Any bull	GMU 418 ((and Elk Area 4941))	((7)) TBD
Toutle	WM	Any	Oct. ((7-13)) 6-12	Any bull	GMU 556	13
Mount Whittier	WM	Any	Sept. 16-22	Any bull	Elk Area 5065	1
Norway Pass	WM	Any	Sept. 16-22	Any bull	Elk Area 5066	2
Mudflow	WM	Any	Oct. ((7-17)) 6-16	Any bull	Elk Area 5099	((5)) 7
Peninsula	WM	Any	Sept. 29 - Oct. 5	3 pt. min.	GMUs 602, 603, 607, 612, 615	2

Bulls						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
((Preseott	EF, EM	Any	Nov. 7-18	Any bull	GMU 149	2
Preseott	EF, EM	Any	Nov. 19-30	Any bull	GMU 149	2
Preseott	EF	Any	Dec. 1-15	Any bull	GMU 149	2
Preseott	EF	Any	Dec. 16-31	Any bull	GMU 149	2))
Ten Forty	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Spike bull only	Elk Area 1040	2
Grande Ronde	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Any bull	GMU 186	1
Mission	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Any bull	GMU 251	1
Teanaway	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Any bull	GMU 335	3
Peaches Ridge	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Any bull	GMUs 336, 346	110
Observatory	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Any bull	GMUs 340, 342	71
Goose Prairie	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Any bull	GMUs 352, 356	106
Bethel	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Any bull	GMU 360	76
Rimrock	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Any bull	GMU 364	77
Cowiche	EF	Any	Oct. ((23-Nov. 5)) 22 - Nov. 4	Any bull	GMU 368	12
Alkali	EF	Any	Oct. ((16-Nov. 3)) 15 - Nov. 2	Any bull	GMU 371	15
Skagit River	WF	Any	Oct. ((7-Nov. 17)) 6 - Nov. 8	Any bull	Elk Area 4941	((2)) TBD
Upper Smith Creek	WF	Any	Oct. 17-23	Any bull	Elk Area 5064	2
Mount Whittier	WF	Any	Oct. 17-23	Any bull	Elk Area 5065	1
Norway Pass	WF	Any	Oct. 17-23	Any bull	Elk Area 5066	3
Olympic	WF	Any	Oct. ((21-Nov. 15)) 20 - Nov. 14	3 pt. min.	GMU 621, EXCEPT for Elk Area 6071	7
Skokomish	WF	Any	Oct. ((21-Nov. 15)) 20 - Nov. 14	3 pt. min.	GMU 636	3
White River	WF	Any	Nov. ((4-15)) 3-14	Any bull	GMU 653	35
Ten Forty	EA	Any	Sept. ((2-10)) 1-9	Spike bull only	Elk Area 1040	2
Grande Ronde	EA	Any	Sept. ((2-21)) 1-20	Any bull	GMU 186	1
Alkali	EA	Any	Sept. ((1-24)) 1-23	Any ((bull)) Elk	GMU 371	10
Skagit River	WA	Any	((Aug. 28 - Sept. 16 and Dec. 1-31)) Aug. 27 - Sept. 15 and Jan. 1-7, 2019	Any bull	Elk Area 4941	((2)) TBD
Upper Smith Creek	WA	WA	Oct. 1-7	Any bull	Elk Area 5064	2
Mount Whittier	WA	Any	Oct. 1-7	Any bull	Elk Area 5065	1
Norway Pass	WA	Any	Oct. 1-7	Any bull	Elk Area 5066	3
Lewis River	WA	Any	Nov. ((22)) 21 - Dec. 8	3 pt. min.	GMU 560	5
Siouxon	WA	Any	Nov. ((22)) 21 - Dec. 8	3 pt. min.	GMU 572	5
Olympic	WA	Any	Sept. ((1-24)) 1-20 and Dec. 1-15	3 pt. min.	GMU 621, EXCEPT Elk Area 6071	5
Skokomish	WA	Any	Sept. ((1-24)) 1-20 and Dec. 1-15	3 pt. min.	GMU 636	5
Ten Forty	EM	Any	Oct. ((7-13)) 8-14	Spike bull only	Elk Area 1040	2
Grande Ronde	EM	Any	Oct. ((7-13)) 1-12	Any bull	GMU 186	1

Bulls						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Alkali	EM	Any	Sept. ((25–Oct. 15)) <u>24 - Oct. 14</u>	Any bull	GMU 371	15
Skagit River	WM	Any	((Sept. 20 – Oct. 1 and Nov. 18–29)) Sept. 19–30 and Dec. 1–10 and Jan. 9–19, 2019	Any bull	Elk Area 4941	((2)) TBD
Upper Smith Creek	WM	Any	Oct. 9–15	Any bull	Elk Area 5064	2
Mount Whittier	WM	Any	Oct. 9–15	Any bull	Elk Area 5065	1
Norway Pass	WM	Any	Oct. 9–15	Any bull	Elk Area 5066	3
Yale	WM	Any	Nov. ((22)) <u>21 - Dec. 15</u>	3 pt. min.	GMU 554	15
Olympic	WM	Any	Sept. ((30–Oct. 13)) <u>29 - Oct. 12</u>	3 pt. min.	GMU 621, EXCEPT for Elk Area 6071	2
Skokomish	WM	Any	Sept. ((30–Oct. 13)) <u>29 - Oct. 12</u>	3 pt. min.	GMU 636	1
White River	WM	Any	Oct. ((7–13)) <u>6–12</u>	Any bull	GMU 653	7

Antlerless Elk						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
North Half	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMUs 101, 105, 204	10
Stevens	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMUs 108, 121	10
Aladdin	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMU 111	10
Selkirk	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMU 113	10
49 Degrees North	EF	Any	Oct. ((28)) <u>27 - Nov. ((5)) 4</u> and Dec. 16–31	Antlerless	GMU 117	10
Turnbull	EF	Any	Nov. 16–21	Antlerless	Elk Area 1015	6
Turnbull	EF	Any	Dec. ((12–17)) <u>11–16</u>	Antlerless	Elk Area 1015	6
Mayview-Peola	EF	Any	Oct. ((14–22)) <u>13–23</u>	Antlerless	GMUs 145, 178	10
Mayview-Peola	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMUs 145, 178	35
Prescott	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMU 149	20
Blue Creek	EF	Any	Oct. ((14–22)) <u>13–23</u>	Antlerless	GMU 154	10
Blue Creek	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMU 154	10
Marengo-Dayton	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMU 163 and Elk Area 1010	((100)) 75
Mountain View	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	Elk Area 1013	40
Dayton	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	Elk Area 1016	((8)) 5
Lick Creek	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMU 175	3
Ten Forty	EF	Any	Nov. ((6–12)) <u>5–11</u>	Antlerless	Elk Area 1040	5
Couse	EF	Any	Aug. ((19–27)) <u>18–26</u>	Antlerless	Elk Area 1081	30
Couse	EF	Any	Oct. ((14–22)) <u>13–23</u>	Antlerless	Elk Area 1081	5
Couse	EF	Any	Oct. ((28–Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	Elk Area 1081	30
George Creek	EF	Any	Oct. 13 - Nov. 19	Antlerless	Elk Area 1082	10
Malaga	EF	Any	Sept. ((9–22)) <u>8–21</u>	Antlerless	Elk Area 2032	20
Malaga	EF	Any	Nov. ((6)) <u>5 - Dec. 31</u>	Antlerless	Elk Area 2032	55

Antlerless Elk						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Colockum	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMUs 328, 329	((100)) 250
West Bar	EF	Any	Oct. ((28-31)) 27-30	Antlerless	GMU 330	5
West Bar	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 330	5
Teanaway	EF	Any	((Aug. 1 - Sept. 8)) Oct. 27 - Nov. 4	Antlerless	GMU 335	((30)) 40
Taneum	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 336	35
Manastash	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 340	30
Umtanum	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 342	25
Little Naches	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 346	35
Nile	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 352	10
Bumping	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 356	20
Bethel	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 360	10
Rimrock	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 364	15
Cowiche	EF	Any	((Nov. 1-5)) Oct. 31 - Nov. 4	Antlerless	GMU 368	15
Alkali	EF	Any	Oct. ((16-Nov. 3)) 15 - Nov. 2	Antlerless	GMU 371	20
South Issaquah	WF	Any	Nov. 3-14	Antlerless	Elk Area 4542	10
North Bend	WF	Any	Nov. ((4-15)) 3-14	Antlerless	Elk Area 4601	5
Green River	WF	Any	((Nov. 4-10)) Oct. 20-26	Antlerless	GMU 485	4
Mossyrock	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 505	50
Willapa Hills	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 506	25
Winston	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 520	25
Margaret	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 524 (except ((for)) <u>CLOSED</u> in Elk Area 5066)	((25)) 5
Ryderwood	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 530	35
Ceweeman	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 550	((50)) 15
Toutle	WF	Any	Nov. 20-30	Antlerless	GMU 556	((25)) 15
Lewis River	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 560	40
Wasougal	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 568	35
Siouxon	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 572	20
Wind River	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 574	40
West Klickitat	WF	Any	Nov. ((4-15)) 3-14	Antlerless	GMU 578	75
Upper Smith Creek	WF	Any	Oct. 17-23	Antlerless	Elk Area 5064	4
Mount Whittier	WF	Any	Oct. 17-23	Antlerless	Elk Area 5065	2
Norway Pass	WF	Any	Oct. 17-23	Antlerless	Elk Area 5066	5
Mudflow	WF	Any	Nov. ((4-15)) 3-14	Antlerless	Elk Area 5099	((7)) 5
Mallis	WF	Any	Dec. 16-31	Antlerless	Elk Area 6010	10
Mallis	WF	Any	Jan. 1-20, ((2018)) 2019	Antlerless	Elk Area 6010	20

Antlerless Elk						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Puyallup	WF	Any	Dec. 29, ((2017)) <u>2018</u> - Jan. 17, ((2018)) <u>2019</u>	Antlerless	Elk Area 6014	10
Puyallup	WF	Any	Jan. 18 - Feb. 7, ((2018)) <u>2019</u>	Antlerless	Elk Area 6014	10
Puyallup	WF	Any	Feb. 8-25, ((2018)) <u>2019</u>	Antlerless	Elk Area 6014	10
Hanaford	WF	Any	Nov. ((4-15)) <u>3-14</u>	Antlerless	Elk Area 6069	5
Williams Creek	WF	Any	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 673	50
Long Beach	WF	Any	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 684	6
Turnbull	EA	Any	Sept. ((9-24)) <u>8-20</u>	Antlerless	Elk Area 1015	14
Lick Creek	EA	Any	Sept. 8-20	Antlerless	GMU 175	<u>10</u>
Dayton	EA	Any	Sept. ((9-24)) <u>8-20</u>	Antlerless	Elk Area 1016	((5)) <u>10</u>
Malaga	EA	Any	Sept. ((2-8)) <u>1-7</u>	Antlerless	Elk Area 2032	20
((Alkali	EA	Any	Sept. 1-24	Antlerless	GMU 371	<u>5))</u>
Colockum	EA	Any	Sept. 8-20	Antlerless	GMUs 328, 329	100
Margaret	WA	Any	Sept. ((9-24)) <u>8-20</u> and Dec. 1-15	Antlerless	GMU 524 (except ((for)) <u>CLOSED</u> in Elk Area 5066)	((20)) <u>5</u>
Toutle	WA	Any	Sept. ((9-24)) <u>8-20</u> and Dec. 1-15	Antlerless	GMU 556	((30)) <u>15</u>
Upper Smith Creek	WA	Any	Oct. 1-7	Antlerless	Elk Area 5064	4
Norway Pass	WA	Any	Oct. 1-7	Antlerless	Elk Area 5066	3
Mudflow	WA	Any	Sept. 8-14 and Nov. 16-21	Antlerless	Elk Area 5099	<u>7</u>
Lewis River	WA	Any	Nov. ((22)) <u>21</u> - Dec. 8	Antlerless	GMU 560	10
Siouxon	WA	Any	Nov. ((22)) <u>21</u> - Dec. 8	Antlerless	GMU 572	5
Wynoochee	WA	Any	Nov. ((22)) <u>21</u> - Dec. 15	Antlerless	GMU 648	((125)) <u>110</u>
North Half	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	GMUs 101, 105, 204	10
Stevens	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	GMUs 108, 121	10
Aladdin	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	GMU 111	10
Selkirk	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	GMU 113	10
49 Degrees North	EM	Any	Oct. ((7-13)) <u>6-12</u> and Dec. 16-31	Antlerless	GMU 117	20
Turnbull	EM	Any	((Oct. 1-7)) <u>Nov. 23-28</u>	Antlerless	Elk Area 1015	9
Turnbull	EM	Any	Nov. ((23-Dec. 6)) <u>30 - Dec. 5</u>	Antlerless	Elk Area 1015	9
Dayton	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	Elk Area 1016	((8)) <u>5</u>
Blue Creek	EM	Any	Dec. 9, ((2017)) <u>2018</u> - Jan. 20, ((2018)) <u>2019</u>	Antlerless	GMU 154	25
Mountain View	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	Elk Area 1013	20
Lick Creek	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	GMU 175	3
Mayview-Peola	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	GMUs 145, 178	20
Couse	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	Elk Area 1081	10
Couse	EM	Any	Dec. ((1-31)) <u>1, 2018 - Jan. 20, 2019</u>	Antlerless	Elk Area 1081 and Elk Area 1075	35
George Creek	EM	Any	Sept. 29 - Oct. 12 and Nov. 20 - Dec. 31	Antlerless	Elk Area 1082	<u>10</u>
Malaga	EM	Any	Sept. ((30-Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	Elk Area 2032	45
Colockum	EM	Any	Oct. ((7-13)) <u>6-12</u>	Antlerless	GMUs 328, 329	((50)) <u>100</u>

Antlerless Elk						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
West Bar	EM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 330	5
Teanaway	EM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 335	10
Taneum	EM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 336	25
Manastash	EM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 340	25
Umtanum	EM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 342	20
Nile	EM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 352	10
Bumping	EM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 356	10
Bethel	EM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 360	10
Cowiche	EM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 368	10
Alkali	EM	Any	Sept. ((25 - Oct. 15)) 24 - Oct. 14	Antlerless	GMU 371	10
((Stella- ((Stella-	WM	Any	Jan. 1-15, 2018	Antlerless	GMU 504	35))
Willapa Hills	WM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 506	15
Mudflow	WM	Any	Oct. ((7-13)) 6-16	Antlerless	Elk Area 5099	4
Winston	WM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 520	15
Margaret	WM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 524 (except ((for)) <u>CLOSED</u> in Elk Area 5066)	((10)) 5
Ryderwood	WM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 530	30
Ceweeman	WM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 550	((25)) 15
Yale	WM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 554	((40)) 30
Yale	WM	Any	Nov. ((22)) 21 - Dec. 15	Antlerless	GMU 554	((35)) 25
Toutle	WM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 556	((25)) 15
Lewis River	WM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 560	15
Wasougal	WM	Any	Nov. ((22)) 21 - Dec. 8	Antlerless	GMU 568	35
Siouxon	WM	Any	Oct. ((7-13)) 6-12	Antlerless	GMU 572	10
Wind River	WM	Any	Nov. ((22)) 21 - Dec. 8	Antlerless	GMU 574	50
((West Klickitat	WM	Any	Nov. 22 - Dec. 8	Antlerless	GMU 578	75))
Upper Smith Creek	WM	Any	Oct. 9-15	Antlerless	Elk Area 5064	4
Mount Whittier	WM	Any	Oct. 9-15	Antlerless	Elk Area 5065	2
Norway Pass	WM	Any	Oct. 9-15	Antlerless	Elk Area 5066	2
Mallis	WM	Any	Oct. ((7-13)) 6-12	Antlerless	Elk Area 6010	((20)) 10
Mashel	WM	Any	Dec. 29, ((2017)) 2018 - Jan. 12, ((2018)) 2019	Antlerless	Elk Area 6054	((25)) 20
North River	WM	Any	Nov. ((22)) 21 - Dec. 15	Antlerless	GMU 658	20
Forks ^Y	WF, WM, WA	Any	Jan. 1-31, 2019	Antlerless	Elk Area 6612	20

Youth - Only youth hunters may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.

Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Turnbull	EF	Youth	Nov. 9-14	Antlerless	Elk Area 1015	6
Aladdin	EF	Youth	Oct. ((28 - Nov. 5)) 27 - Nov. 4	Antlerless	GMU 111	5
Selkirk	EF	Youth	Oct. ((28 - Nov. 5)) 27 - Nov. 4	Antlerless	GMU 113	5
49 Degrees North	EF	Youth	Oct. ((28)) 27 - Nov. ((5)) 4 and Dec. 16-31	Antlerless	GMU 117	5
Mayview-Peola	EF	Youth	Oct. ((28 - Nov. 5)) 27 - Nov. 4	Antlerless	GMUs 145, 178	5

Youth - Only youth hunters may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Blue Creek	EF	Youth	Oct. ((28—Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMU 154	5
Dayton	EF	Youth	Oct. ((28—Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMU 162	10
Ten Forty	EF	Youth	Oct. ((14-22)) <u>13-21</u>	Antlerless	Elk Area 1040	5
Lick Creek	EF	Youth	Oct. ((28—Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	GMU 175	2
Couse	EF	Youth	Aug. ((19-27)) <u>18-26</u>	Antlerless	Elk Area 1081	5
Couse	EF	Youth	Oct. ((28—Nov. 5)) <u>27 - Nov. 4</u>	Antlerless	Elk Area 1081	5
Malaga	EF	Youth	Nov. ((6-15)) <u>5-15</u>	Antlerless	Elk Area 2032	10
Colockum	EF	Youth	((Nov. 1-12)) Oct. 31 - Nov. 12	Antlerless	GMUs 328, 329, 335	((15)) <u>25</u>
Yakima North	EF	Youth	((Nov. 1-12)) Oct. 31 - Nov. 12	Antlerless	GMUs 336, 340, 342, 346	15
Yakima Central	EF	Youth	((Nov. 1-12)) Oct. 31 - Nov. 12	Antlerless	GMUs 352, 356, 360	5
Yakima South	EF	Youth	((Nov. 1-12)) Oct. 31 - Nov. 12	Antlerless	GMUs 364, 368	5
Colockum	EM	Youth	Sept. ((30—Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMUs 328, 329, 335	((5)) <u>10</u>
Yakima North	EM	Youth	Sept. ((30—Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMUs 336, 340, 342, 346	10
Yakima Central	EM	Youth	Sept. ((30—Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMUs 352, 356, 360	10
Yakima South	EM	Youth	Sept. ((30—Oct. 8)) <u>29 - Oct. 7</u>	Antlerless	GMUs 364, 368	10
North Bend	WF, WM, WA	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	Elk Area 4601	5
Skagit River	WF, WM, WA	Youth	((Sept. 17-19, Oct. 2-6, and Oct. 15-29)) Nov. 10-26 and Dec. 17-31	((Any elk)) Antlerless	Elk Area 4941	((4)) TBD
((Grays River	WF	Youth	Dec. 16-31	Antlerless	Elk Area 5056	5))
Mudflow	WF	Youth	Nov. ((22-30)) <u>21-30</u>	Any bull	Elk Area 5099	((3)) <u>5</u>
Mudflow	WF	Youth	Oct. ((28—Nov. 3)) <u>27 - Nov. 2 and Nov. 24-30</u>	Antlerless	Elk Area 5099	((3)) <u>5</u>
Coweeaman	WF	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 550	15
Toutle	WF	Youth	Nov. 20-30	Antlerless	GMU 556	((25)) <u>20</u>
Lewis River	WF	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 560	10
Wind River	WF	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 574	10
West Klickitat	WF	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 578	25
Region 5	WF	Youth with mentor	Aug. 1, ((2017)) <u>2018 - Mar. 31, ((2018)) 2019</u>	Antlerless	Designated Areas in Region 5	10 ^{HC}
Peninsula	WF	Youth	Nov. 3-14	Antlerless	GMUs 602, 607, 612, 615	4
Clearwater	WF	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 615	5
Matheny	WF	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 618	5
Wynoochee	WF	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 648	10
North River	WF	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 658	5
Williams Creek	WF	Youth	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 673	10
Mallis	WF	Youth	Dec. ((16-31)) <u>16, 2018 - Jan. 20, 2019</u>	Antlerless	Elk Area 6010	10
Peninsula	WA	Youth	Sept. 8-20	Antlerless	GMUs 602, 607, 612, 615	2

Youth - Only youth hunters may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Peninsula	WM	Youth	Oct. 6-12	Antlerless	GMUs 602, 607, 612, 615	2
Forks ^Y	WF, WM, WA	Youth	Dec. 16-31	Antlerless	Elk Area 6612	10
Region 6	WF	Youth with mentor	Aug. 1, 2018 - Mar. 31, 2019	Antlerless	Designated Areas in Region 5	5 ^{HC}

65+ Senior - Only hunters 65 and older may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Northeast	EF	65+	Oct. ((28)) 27 - Nov. ((5)) 4 and Dec. 16-31	Antlerless	GMUs 113, 117	10
Prescott	EF	65+	Oct. ((28-Nov. 5)) 27 - Nov. 4	Antlerless	GMU 149	3
Blue Creek	EF	65+	Oct. ((28-Nov. 5)) 27 - Nov. 4	Antlerless	GMU 154	3
Dayton	EF	65+	Oct. ((28-Nov. 5)) 27 - Nov. 4	Antlerless	GMUs 162, 163	3
Peola	EF	65+	Oct. ((28-Nov. 5)) 27 - Nov. 4	Antlerless	GMU 178	3
Malaga	EF	65+	Nov. ((6-15)) 5-15	Antlerless	Elk Area 2032	10
Colockum	EF	65+	((Nov. 1-12)) Oct. 31 - Nov. 12	Antlerless	GMUs 328, 329, 335	((5)) 10
Yakima North	EF	65+	((Nov. 1-12)) Oct. 31 - Nov. 12	Antlerless	GMUs 336, 340, 342, 346	10
Yakima Central	EF	65+	((Nov. 1-12)) Oct. 31 - Nov. 12	Antlerless	GMUs 352, 356, 360	5
Yakima South	EF	65+	((Nov. 1-12)) Oct. 31 - Nov. 12	Antlerless	GMUs 364, 368	5
Alkali	EF	65+	Oct. ((16-Nov. 3)) 15 - Nov. 2	Antlerless	GMU 371	10
South Issaquah	WF, WM, WA	65+	Nov. 3-14	Antlerless	Elk Area 4542	10
North Bend	WF, WM, WA	65+	Nov. ((4-15)) 3-14	Antlerless	Elk Area 4601	5
Colockum	EM	65+	Sept. ((30-Oct. 8)) 29 - Oct. 7	Antlerless	GMUs 328, 329, 335	5
Yakima North	EM	65+	Sept. ((30-Oct. 8)) 29 - Oct. 7	Antlerless	GMUs 336, 340, 342, 346	5
Yakima Central	EM	65+	Sept. ((30-Oct. 8)) 29 - Oct. 7	Antlerless	GMUs 352, 356, 360	5
Ryderwood	WF	65+	Nov. ((4-15)) 3-14	Antlerless	GMU 530	15
((West Klickitat	WM	65+	Nov. 22-Dec. 8	Antlerless	GMU 578	15))
Skagit River	WF, WM, WA	65+	((Sept. 17-19, Oct. 2-6, and Oct. 15-29)) Nov. 11-26 and Dec. 17-31	((Any elk)) Antlerless	Elk Area 4941	((4)) TBD
((Grays River	WF, WM, WA	65+	Jan. 16-31, 2018	Antlerless	Elk Area 5056	5))
Peninsula	WF	65+	Nov. 3-14	Antlerless	GMUs 602, 607, 612, 615	3
Centralia Mine	WF	65+	Jan. 6-7, ((2018)) 2019	Antlerless	Elk Area 6011	5
Centralia Mine	WF	65+	Jan. 13-14, ((2018)) 2019	Antlerless	Elk Area 6011	5
Hanaford	WF, WM, WA	65+	Dec. 29, ((2017)) 2018 - Jan. 12, ((2018)) 2019	Antlerless	Elk Area 6069	5
Hanaford	WF, WM, WA	65+	Jan. 13-28, ((2018)) 2019	Antlerless	Elk Area 6069	5
Peninsula	WA	65+	Sept. 8-20	Antlerless	GMUs 602, 607, 612, 615	1
Peninsula	WM	65+	Oct. 6-12	Antlerless	GMUs 602, 607, 612, 615	1
Forks ^Y	WF, WM, WA	65+	Dec. 16-31	Antlerless	Elk Area 6612	10

Hunters with Disabilities - Only hunters with disabilities may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Northeast	EF	Hunters w/ Disabilities	Oct. ((28)) <u>27</u> - Nov. ((5)) <u>4</u> and Dec. 16-31	Antlerless	GMUs 113, 117	4
Turnbull	EF, EM, EA	Hunters w/ Disabilities	Oct. ((9-15)) <u>1-6</u>	Antlerless	Elk Area 1015	6
Prescott	EF	Hunters w/ Disabilities	Oct. ((28-Nov. 5)) <u>27</u> - <u>Nov. 4</u>	Antlerless	GMU 149	3
Blue Creek	EF	Hunters w/ Disabilities	Oct. ((28-Nov. 5)) <u>27</u> - <u>Nov. 4</u>	Antlerless	GMU 154	3
Dayton	EF	Hunters w/ Disabilities	Oct. ((28-Nov. 5)) <u>27</u> - <u>Nov. 4</u>	Antlerless	GMUs 162, 163	3
Peola	EF	Hunters w/ Disabilities	Oct. ((28-Nov. 5)) <u>27</u> - <u>Nov. 4</u>	Antlerless	GMU 178	3
Observatory	EF, EM, EA	Hunters w/ Disabilities	Oct. ((23-Nov. 5)) <u>22</u> - <u>Nov. 4</u>	Any bull	GMUs 340, 342	5
Little Naches	EF, EM, EA	Hunters w/ Disabilities	Sept. ((30-Oct. 8)) <u>29</u> - <u>Oct. 7</u>	Any bull	GMU 346	5
Malaga	EF, EM, EA	Hunters w/ Disabilities	Sept. ((9-22)) <u>8-21</u>	Antlerless	Elk Area 2032	10
Colockum	EF, EM, EA	Hunters w/ Disabilities	((Nov. 1-12)) <u>Oct. 31</u> - Nov. 12	Antlerless	GMUs 328, 329, 335	((5)) <u>10</u>
Yakima North	EF, EM, EA	Hunters w/ Disabilities	((Nov. 1-12)) <u>Oct. 31</u> - Nov. 12	Antlerless	GMUs 336, 340, 342, 346	10
Yakima Central	EF, EM, EA	Hunters w/ Disabilities	((Nov. 1-12)) <u>Oct. 31</u> - Nov. 12	Antlerless	GMUs 352, 356, 360	5
Yakima South	EF, EM, EA	Hunters w/ Disabilities	((Nov. 1-12)) <u>Oct. 31</u> - Nov. 12	Antlerless	GMUs 364, 368	5
Alkali	EF, EM, EA	Hunters w/ Disabilities	Oct. ((16-Nov. 3)) <u>15</u> - <u>Nov. 2</u>	Any bull	GMU 371	5
Corral Canyon	EF, EM, EA	Hunters w/ Disabilities	Sept. 22-29	Any elk	Elk Area 3721	2
<u>South Issaquah</u>	WF, WM, WA	<u>Hunters w/ Disabilities</u>	<u>Nov. 3-14</u>	<u>Antlerless</u>	<u>Elk Area 4542</u>	<u>10</u>
North Bend	WF, WM, WA	Hunters w/ Disabilities	Nov. ((4-15)) <u>3-14</u>	Antlerless	Elk Area 4601	5
Skagit River	WF, WM, WA	Hunters w/ Disabilities	((Sept. 17-19, Oct. 2-6, and Oct. 15-29)) <u>Nov. 11-26 and Dec. 17-31</u>	((Any elk)) <u>Antlerless</u>	Elk Area 4941	((4)) <u>TBD</u>
((Grays River	WF, WM, WA	Hunters w/ Disabilities	Feb. 15-28, 2018	Antlerless	Elk Area 5056	5))
Mudflow	WF, WM, WA	Hunters w/ Disabilities	Oct. ((20-26)) <u>19-25</u>	Antlerless	Elk Area 5099	((3)) <u>5</u>
Mudflow	WF, WM, WA	Hunters w/ Disabilities	Sept. ((26-Oct. 2)) <u>25</u> - <u>Oct. 1</u>	Any bull	Elk Area 5099	((4)) <u>5</u>
Washougal	WF	Hunters w/ Disabilities	Nov. ((4-15)) <u>3-14</u>	Antlerless	GMU 568	15
<u>Region 5</u>	<u>WF</u>	<u>Hunters w/ Disabilities</u>	<u>Aug. 1, 2018 - Mar. 31, 2019</u>	<u>Antlerless</u>	<u>Designated Areas in Region 5</u>	<u>10^{HC}</u>
Centralia Mine	WF	Hunters w/ Disabilities	((Oct. 7-8)) <u>Sept. 29-30</u>	Antlerless	Designated Areas in Elk Area 6011	5
Centralia Mine	WF	Hunters w/ Disabilities	Oct. ((14-15)) <u>6-7</u>	Antlerless	Designated Areas in Elk Area 6011	5
((Region 5	WF	Hunters w/ Disabilities	Aug. 1, 2017 - Mar. 31, 2018	Antlerless	Designated Areas in Region 5	10 ^{HE}))
<u>Peninsula</u>	<u>WF</u>	<u>Hunters w/ Disabilities</u>	<u>Nov. 3-14</u>	<u>Antlerless</u>	<u>GMUs 602, 607, 612, 615</u>	<u>3</u>

Hunters with Disabilities - Only hunters with disabilities may apply. Weapon must be consistent with weapon/tag restriction noted for hunt.						
Hunt Name	Weapon/Tag	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Peninsula	WM	<u>Hunters w/ Disabilities</u>	Oct. 6-12	Antlerless	GMUs 602, 607, 612, 615	1
Peninsula	WA	<u>Hunters w/ Disabilities</u>	Sept. 8-20	Antlerless	GMUs 602, 607, 612, 615	1

Master Hunter - Only master hunters may apply. Weapon must be consistent with weapon/tag restriction noted for hunt. Additional weapon restrictions may be conditioned by the hunt coordinator for each hunt. For those hunts requiring the purchase of a master hunter second tag, one elk may be killed in the unit under the authorization of the special permit.

Hunt Name	Weapon/Tag	Requirements	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Turnbull	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Dec. 19-31	Antlerless	Elk Area 1015	6
Region 1	EF, EA, EM/2nd elk tag	Master Hunter elk tag required	Master Hunter	Aug. 1, ((2017)) 2018 - Mar. 31, ((2018)) 2019	Antlerless	Region 1	20 ^{HC}
Region 2	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Aug. 1, ((2017)) 2018 - Mar. 31, ((2018)) 2019	Antlerless	Designated Areas in Region 2	10 ^{HC}
Fairview	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	((Oct. 28, 2017 – Mar. 31, 2018)) Oct. 27, 2018 - Mar. 31, 2019	Antlerless	Designated Areas in GMUs 328-368	40 ^{HC}
Region 3	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Aug. 1, ((2017)) 2018 - Mar. 31, ((2018)) 2019	Antlerless	Designated Areas in Region 3	25 ^{HC}
Rattlesnake Hills	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Aug. 1, ((2017)) 2018 - Feb. 28, ((2018)) 2019	Antlerless	Designated Areas in GMU 372	20 ^{HC}
((North Bend	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	July 1, 2017 – Mar. 31, 2018	Antlerless	Designated Areas in Elk Area 4601	15 ^{HC})
Region 4 North	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	July 1, ((2017)) 2018 - Mar. 31, ((2018)) 2019	Antlerless	Designated Areas in Whatcom and Skagit counties	((12)) ^{TBD^{HC}}
Region 4 South	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	July 1, ((2017)) 2018 - Mar. 31, ((2018)) 2019	Antlerless	Designated Areas in King and Snohomish counties	10 ^{HC}
Pumice Plains	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Sept. 24-30	Antlerless	Elk Area 5063	2
Pumice Plains	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Oct. 9-15	Antlerless	Elk Area 5063	2
Pumice Plains	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Oct. 17-23	Antlerless	Elk Area 5063	5
Pumice Plains	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Nov. 3-14	Antlerless	Elk Area 5063	2
Trout Lake**	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Dec. 15-31	Antlerless	Elk Area 5062	5
((Grays River	WF, WM, WA/2nd elk tag	Master Hunter elk tag required	Master Hunter	Aug. 16-30	Antlerless	Elk Area 5056	5))
Trout Lake**	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Jan. 1-15, ((2018)) 2019	Antlerless	Elk Area 5062	5
Trout Lake**	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Jan. 16-30, ((2018)) 2019	Antlerless	Elk Area 5062	5
JBH*	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Nov. 1 - Dec. 31	Antlerless	Elk Area 5090	5 ^{HC}
Region 5	Any western elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Aug. 1, ((2017)) 2018 - Mar. 31, ((2018)) 2019	Antlerless	Designated Areas in Region 5	((20)) ^{30^{HC}}

Master Hunter - Only master hunters may apply. Weapon must be consistent with weapon/tag restriction noted for hunt. Additional weapon restrictions may be conditioned by the hunt coordinator for each hunt. For those hunts requiring the purchase of a master hunter second tag, one elk may be killed in the unit under the authorization of the special permit.

Hunt Name	Weapon/Tag	Requirements	Hunters	Hunt Dates	Special Restrictions	Boundary	Permits
Long Beach	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	((Aug. 1 – Sept. 8 and Oct. 14 – Nov. 24)) July 1, 2018 - Mar. 31, 2019	Antlerless	GMU 684	5
((Long Beach	Any elk tag/2nd elk tag	Master Hunter elk tag required	Master Hunter	Dec. 16, 2017 – Mar. 31, 2018	Antlerless	GMU 684	5))
Region 6	WF, WA, WM/2nd elk tag	Master Hunter elk tag required	Master Hunter	July 1, 2017 - Mar. 31, 2018	Antlerless	Designated Areas in Region 6	((60)) 30 ^{HC}

* Muzzleloader only, scopes allowed.

** May only hunt on privately owned lands. Must use only archery or legal shotgun (10 or 12 gauge; slugs only).

¥ Must use only archery, muzzleloader, or legal shotgun (10 or 12 gauge; slugs only).

HC This is a damage hunt administered by a WDFW designated hunt coordinator. Successful applicants will be contacted on an as-needed basis to help with specific sites of elk damage on designated landowner's property. Not all successful applicants will be contacted in any given year, depending on elk damage activity for that year.

Hunter Education Instructor Incentive Permits				
Area	Dates	Restrictions	GMUs	Permits
Region 3	All general season and permit seasons established for GMUs included with the permit. Not eligible for seasons and permits for auction hunts; raffle hunts; and hunts for master hunters, youth hunters, hunters with disabilities, or hunters 65 years and older, unless the hunter education instructor legally qualifies for such hunts.	Any ((elk)) bull	GMUs 336-346	2
Region 3		Any ((elk)) bull	GMUs 352-360	1
Region 3		Any ((elk)) bull	GMUs 364-368	1
Region 5		Any elk	382, 388 and all 500 series GMUs EXCEPT GMU 522	2
Region 6		Any elk	GMUs 618, 638-648, 654, ((660)) 658, 663, 672, ((673, 684)) 699	1

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-415-070 ((2017)) 2018 Moose seasons, permit quotas, and areas. (1) It is unlawful to fail to comply with the provisions of this section. A violation of this section is punishable under RCW 77.15.410, Unlawful hunting of big game—Penalty.

(2) Moose Permit Hunts

(a) Who May Apply:

(i) **Any antlered bull moose category:** An individual may only harvest one moose under the "any antlered bull moose" or "any moose" category during his or her lifetime. Applications will not be accepted from hunters having previously harvested a moose in the "any moose" or "any antlered bull moose" category.

(ii) **Antlerless only, youth antlerless, over-65 antlerless, disabled-antlerless, master-hunter any moose, hunter-education antlerless, auction moose, raffle moose:** Anyone may apply.

(b) **Bag Limit:** One moose.

(c) **Weapon Restrictions:** Permit holders may use any legal weapon.

Hunt Name	Notes	Permit Season	GMU or boundary	Permits
Any moose				
Kettle Range East Okanogan		Oct. 1 – Nov. 30	GMUs 101, 105, 204	10
Douglas A – Early		Oct. 1-31	GMU 108	3
Douglas A – Late		Nov. 1-30	GMU 108	3

Hunt Name	Notes	Permit Season	GMU or boundary	Permits
Aladdin A - Early		Oct. 1-31	GMU 111	3
Aladdin A - Late		Nov. 1-30	GMU 111	3
Selkirk		Oct. 1 - Nov. 30	GMU 113	15
49 Degrees North A - Early		Oct. 1-31	GMU 117	15
49 Degrees North A - Late		Nov. 1-30	GMU 117	15
Parker Lake A - Archery	e,W	Sept. 1-30	Moose area 3	2
Parker Lake A - Muzzleloader	e,X	Oct. 1-31	Moose area 3	2
Huckleberry A - Early		Oct. 1-31	GMU 121	6
Huckleberry A - Late		Nov. 1-30	GMU 121	6
Spokane West A		Oct. 1 - Nov. 30	GMU 124 w of Hwy 395	+
Mt Spokane South A		Oct. 1 - Nov. 30	Moose Area 1 (within 124)	8
Mt Spokane North A		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	8
Hangman		Oct. 1 - Nov. 30	GMU 127 & 130	4
Antlerless only				
Douglas B		Oct. 1 - Nov. 30	GMU 108	2
Aladdin B		Oct. 1 - Nov. 30	GMU 111	2
49 Degrees North B		Oct. 1 - Nov. 30	GMU 117	2
Huckleberry B		Oct. 1 - Nov. 30	GMU 121	3
Spokane West B		Oct. 1 - Nov. 30	GMU 124 w of Hwy 395	2
Mt Spokane South B		Oct. 1 - Nov. 30	Moose Area 1 (within 124)	8
Mt Spokane North B		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	7
Mica Peak		Oct. 1 - Nov. 30	GMU 127	4
Cheney B		Oct. 1 - Nov. 30	GMU 130	2
Youth Only - antlerless				
49 Degrees North Y	a	Oct. 1 - Nov. 30	GMU 117	2
Mt Spokane South Y		Oct. 1 - Nov. 30	Moose Area 1 (within 124)	8
Mt Spokane North Y		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	8
65 Year and over - antlerless				
((49 Degrees North V	e	Oct. 1 - Nov. 30	GMU 117	2
Huckleberry V		Oct. 1 - Nov. 30	GMU 121	2
Disabled hunter - antlerless				
49 Degrees North D	b	Oct. 1 - Nov. 30	GMU 117	3
Mt Spokane North D		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	+
Hunter Education - antlerless				
District 1 HE	HEII	Oct. 1 - Nov. 30	GMU 101, 105, 108, 111, 113, 121	4

Hunt Name	Notes	Permit Season	GMU or boundary	Permits
Master Hunter - Any moose				
Spokane District MH	HC	Aug. 1 - Mar. 31	GMUs 124-142	40))

(d) **Submitting moose teeth:** Successful moose hunters must submit an incisor tooth from the lower jaw, either in person at a WDFW office, or via the postage-paid envelope supplied, no later than sixty days after harvest.

(e) **Any antlered bull moose seasons:** Open only to the taking of moose with visible antlers (bull calves illegal).

Hunt Name	Notes	Permit Season	GMU or boundary	Permits
Any antlered bull moose				
Kettle Range-East Okanogan 101, 105, 204		Oct. 1 - Nov. 30	GMUs 101, 105, 204	10
Douglas A - Early		Oct. 1-31	GMU 108	3
Douglas A - Late		Nov. 1-30	GMU 108	3
Aladdin A - Early		Oct. 1-31	GMU 111	3
Aladdin A - Late		Nov. 1-30	GMU 111	3
Selkirk 113		Oct. 1 - Nov. 30	GMU 113	15
49 Degrees North A - Early		Oct. 1-31	GMU 117	15
49 Degrees North A - Late		Nov. 1-30	GMU 117	15
Parker Lake A - Archery	e.W	Sept. 1-30	Moose Area 3	2
Parker Lake A - Muzzleloader	e.X	Oct. 1-31	Moose Area 3	2
Huckleberry A - Early		Oct. 1-31	GMU 121	6
Huckleberry A - Late		Nov. 1-30	GMU 121	6
Spokane West A		Oct. 1 - Nov. 30	GMU 124 w of Hwy 395	1
Mt Spokane South A		Oct. 1 - Nov. 30	Moose Area 1 (within 124)	8
Mt Spokane North A		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	8
Hangman		Oct. 1 - Nov. 30	GMU 127 & 130	4
Antlerless only -				
Douglas 108 B		Oct. 1 - Nov. 30	GMU 108	2
Aladdin 111 B		Oct. 1 - Nov. 30	GMU 111	2
49 Degrees North B		Oct. 1 - Nov. 30	GMU 117	4
Huckleberry B		Oct. 1 - Nov. 30	GMU 121	9
Spokane West B		Oct. 1 - Nov. 30	GMU 124 w of Hwy 395	2
Mt Spokane South B		Oct. 1 - Nov. 30	Moose Area 1 (within 124)	74
Mt Spokane North B		Oct. 1 - Nov. 30	Moose Area 2 (within 124)	4
Mica Peak		Oct. 1 - Nov. 30	GMU 127	4
Cheney B		Oct. 1 - Nov. 30	GMU 130	2
Youth Only - Antlerless	a			
Mt Spokane South Y		Oct. 1 - Nov. 30	Moose Area 1 (within 124)	1
65 Year and over - Antlerless	c			
49 Degrees North V		Oct. 1 - Nov. 30	GMU 117	2

<u>Hunt Name</u>	<u>Notes</u>	<u>Permit Season</u>	<u>GMU or boundary</u>	<u>Permits</u>
Huckleberry V		<u>Oct. 1 - Nov. 30</u>	<u>GMU 121</u>	<u>2</u>
<u>Disabled hunter - Antlerless</u>	<u>b</u>			
49 Degrees North D		<u>Oct. 1 - Nov. 30</u>	<u>GMU 117</u>	<u>3</u>
Mt Spokane North D		<u>Oct. 1 - Nov. 30</u>	<u>Moose Area 2 (within 124)</u>	<u>1</u>
<u>Hunter Education Antlerless</u>	<u>d</u>			
			<u>GMU 101, 105,108, 111,113,117,121</u>	<u>1</u>

^aApplicants must be eligible to purchase a youth moose permit application. An adult must accompany the youth hunter during the hunt.

^bApplicants must possess a Disabled Hunter Permit.

^cApplicants must be eligible to purchase a 65 years of age or older permit application.

^dApplicants must be a certified hunter education instructor who meets program-defined eligibility criteria.

^eThe following special hunt is offered by the USAF Survival School on a trial basis and will be evaluated based on student safety each year for continuation.

((^hThis is a damage hunt administered by a WDFW designated hunt coordinator. Only master hunters may apply, and any weapon may be used. Successful applicants will be contacted on an as-needed basis to help with specific sites of nuisance moose activity in designated areas. Not all successful applicants will be contacted in any given year.))

^wArchery only.

^xMuzzleloader or archery only.

^{HEII}Only qualifying hunter education instructors may apply.

(3) Moose Areas:

(a) Moose Area 1: South Spokane Moose Area:

That portion of GMU 124 beginning at intersection of Blanchard Rd and Idaho-Washington state line: W on Blanchard Rd to Blanchard Creek Rd; SW on Blanchard Creek Rd to Tallman Rd; W on Tallman Rd to Elk Chattaroy Rd; SW on Elk Chattaroy Rd to Hwy 2; S on Hwy 2 to Hwy 395, S on Hwy 395 to Spokane River, E on Spokane River to Idaho-Washington state line, N on Idaho-Washington state line to Blanchard Rd and the point of beginning.

(b) Moose Area 2: North Spokane Moose Area:

That portion of GMU 124 beginning at intersection of Blanchard Rd and Idaho-Washington state line: W on Blanchard Rd to Blanchard Creek Rd; SW on Blanchard Creek Rd to Tallman Rd; W on Tallman Rd to Elk Chattaroy Rd; SW on Elk Chattaroy Rd to Hwy 2; S on Hwy 2 to Hwy 395, N on Hwy 395 to Deer Park-Milan Rd, E on Deer Park-Milan Rd to Hwy 2, N on Hwy 2 to Idaho-Washington state line, S on Idaho-Washington state line to Blanchard Rd and the point of beginning.

(c) Moose Area 3: Parker Lake (GMU 117, Pend Oreille County): All lands south of Ruby Creek Rd (USFS Road 2489), north of Tacoma Creek Rd (USFS Road 2389), and west of Bonneville Power Administration power lines.

AMENDATORY SECTION (Amending WSR 17-19-088, filed 9/19/17, effective 10/20/17)

WAC 220-415-080 ((2018)) 2019-2020 Spring black bear seasons and regulations. It is unlawful to fail to comply with the provisions of this section. A violation of this section is punishable under RCW 77.15.410, 77.15.245, or 77.15.280, depending on the circumstances of the violation.

Who May Apply: Anyone with a valid Washington big game license, which includes black bear as a species option.

Hunt Areas, Permit Levels, and Season Dates for Each License Year:

Hunt Name	Hunt Area	Permits	Season Dates
Sherman	GMU 101 <u>Note: Mandatory bear identification test required.</u>	50	April 1 - June 15
Kelly Hill	GMU 105 <u>Note: Mandatory bear identification test required.</u>	50	April 1 - June 15
Douglas	GMU 108 <u>Note: Mandatory bear identification test required.</u>	40	April 1 - June 15
Aladdin	GMU 111 <u>Note: Mandatory bear identification test required.</u>	50	April 1 - June 15

Hunt Name	Hunt Area	Permits	Season Dates
49 Degrees North	GMU 117 <u>Note: Mandatory bear identification test required.</u>	100	April 1 - June 15
Huckleberry	GMU 121	100	April 1 - June 15
Blue Creek	GMU 154	15	April 15 - June 15
Dayton	GMU 162	15	April 15 - June 15
Tucannon	GMU 166	5	April 15 - June 15
Wenaha	GMU 169	45	April 15 - June 15
Mt. View	GMU 172	15	April 15 - June 15
Lick Creek	GMU 175	15	April 15 - June 15
Couse	GMU 181	4	April 15 - June 15
Grande Ronde	GMU 186	5	April 15 - June 15
Kitsap	GMU 627	5	April 15 - May 31
Mason	GMU 633	5	April 15 - May 31
Bear River	GMU 681	20	April 15 - May 31
Long Beach	GMU 684	12	April 15 - May 31
North Skagit	That portion of GMU 418 that is designated as the hunt area by DNR, Sierra Pacific, Weyerhaeuser-Columbia Timber Lands, and Grandy Lake Timber company. <u>Note: Mandatory bear identification test required.</u>	30	April 15 - June 15
Copalis	GMU 642, 638, and 648 (excluding U.S. Forest Service lands).	50	April 15 - June 15
Kapowsin	That portion of GMUs 653 and/or 654 that is designated as the hunt area by Hancock Forest Management ((and International Forestry)), Hampton, and Olympic Resource Management.	150	April 15 - June 15

Bag Limit: One black bear per black bear special permit season.

License Required: A valid big game hunting license, which includes black bear as a species option, is required to hunt black bear. One black bear transport tag is included with a big game hunting license that has black bear as a species option.

Hunting Method: Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting black bear. The use of dogs or bait to hunt black bear is prohibited statewide.

Other Requirements: Hunters that are selected to hunt in GMUs located in grizzly bear recovery areas, as identified by the department, must successfully complete the WDFW online bear identification test with a passing score (80% or higher) or carry proof that they have passed an equivalent test from another state. The WDFW test may be taken repeatedly until a passing score is achieved. All hunters must carry proof of passing a bear identification test while hunting in the GMUs identified by the department.

Submitting Biological Samples and Bear Teeth: Successful bear hunters must ((submit)) comply with notification and submission of biological samples including the black bear premolar located behind the canine tooth of the upper jaw. Failure to provide reports or comply with the conditions of this chapter is an infraction pursuant to RCW 77.15.160.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-415-090 ((2015-2017)) 2018-2020 Fall

black bear hunting seasons and regulations. It is unlawful to fail to comply with the provisions below. A violation of this section is punishable under RCW 77.15.410, 77.15.245, or 77.15.280 (1)(c).

Black Bear Management Unit	Season	Hunt Area
Coastal	Aug. 1 - Nov. 15, ((2015)) 2018	GMUs 501, 504, 506, 530, 601,
	Aug. 1 - Nov. 15, ((2016)) 2019	602, 603, 607-621, 636-651,
	Aug. 1 - Nov. 15, ((2017)) 2020	658-663, 672-684
Puget Sound	Aug. 1 - Nov. 15, ((2015)) 2018	GMUs 407, ((410,)) 454, 624,
	Aug. 1 - Nov. 15, ((2016)) 2019	627, 633, 652, 666, 667
	Aug. 1 - Nov. 15, ((2017)) 2020	
North Cascades	Aug. 1 - Nov. 15, ((2015)) 2018	GMUs ((418-450)) 418-421,
	Aug. 1 - Nov. 15, ((2016)) 2019	426-450, 460
	Aug. 1 - Nov. 15, ((2017)) 2020	
South Cascades	Aug. 15 - Nov. 15, ((2015)) 2018	GMUs 466, 485, 503, 505, 510-
	Aug. 15 - Nov. 15, ((2016)) 2019	520, 524, 550-574, 653, 654
	Aug. 15 - Nov. 15, ((2017)) 2020	
Okanogan	Aug. 15 - Nov. 15, ((2015)) 2018	GMUs 203, 209-
	Aug. 15 - Nov. 15, ((2016)) 2019	243
	Aug. 15 - Nov. 15, ((2017)) 2020	
East Cascades	Aug. 1 - Nov. 15, ((2015)) 2018	GMUs 244-247, 249-251, 328,
	Aug. 1 - Nov. 15, ((2016)) 2019	329-368, 382, 388, 578
	Aug. 1 - Nov. 15, ((2017)) 2020	
Northeastern A	Sept. 1 - Nov. 15, ((2015)) 2018	GMUs 101-121,
	Sept. 1 - Nov. 15, ((2016)) 2019	204
	Sept. 1 - Nov. 15, ((2017)) 2020	

Black Bear Management Unit	Season	Hunt Area
Northeastern B	Aug. 15 - Nov. 15, ((2015)) 2018	GMUs 124-130
	Aug. 15 - Nov. 15, ((2016)) 2019	
	Aug. 15 - Nov. 15, ((2017)) 2020	
Blue Mountains	Sept. 1 - Nov. 15, ((2015)) 2018	GMUs 145-154, 162-186
	Sept. 1 - Nov. 15, ((2016)) 2019	
	Sept. 1 - Nov. 15, ((2017)) 2020	
Columbia Basin	Aug. 1 - Nov. 15, ((2015)) 2018	GMUs 133, 136, 139, 142, 248,
	Aug. 1 - Nov. 15, ((2016)) 2019	254, 260-290, 371-381
	Aug. 1 - Nov. 15, ((2017)) 2020	
Long Island	Sept. 1 - Nov. 15, ((2015)) 2018	GMU 699
	Sept. 1 - Nov. 15, ((2016)) 2019	
	Sept. 1 - Nov. 15, ((2017)) 2020	

Bag Limit: Two (2) black bear per annual hunting season, only one of which may be taken in Eastern Washington.

Area Restriction: Special deer permit required to hunt black bear in GMU 485. GMUs 410 and 422 are closed for black bear hunting. Hunters that choose to hunt in GMUs located in grizzly bear recovery areas, as identified by the department, must successfully complete the WDFW online bear identification test or equivalent test from another state and carry proof of successful completion.

License Required: A valid big game hunting license, which includes black bear as a species option, is required to hunt black bear. One black bear transport tag is included with a big game hunting license that has black bear as a species option. A second black bear transport tag must be purchased to take a second bear.

Hunting Method: Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting black bear. The use of hounds and bait to hunt black bear is prohibited statewide.

Other Requirements: Hunters that choose to hunt in GMUs located in grizzly bear recovery areas as identified by the department must successfully complete the WDFW online bear identification test with a passing score (80% or higher) or carry proof that they have passed an equivalent test from another state. The WDFW test may be taken repeatedly until a passing score is achieved. All hunters must carry proof of

passing a bear identification test while hunting in the GMUs identified by the department.

Submitting Biological Samples and Bear Teeth: Successful bear hunters must ((submit)) comply with notification and submission of biological samples including the black bear

premolar tooth located behind the canine tooth of the upper jaw. Failure to abide by the conditions of permits is a misdemeanor pursuant to RCW 77.15.750. Failure to provide reports or comply with the conditions of this chapter is an infraction pursuant to RCW 77.15.160.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-415-100 ((2016-2017 and 2017-2018)) 2018-2019 and 2019-2020 Cougar hunting seasons and regulations.

(1) As used in this section and in the context of general cougar hunting seasons, "harvest guideline" means the estimated allowable harvest; the actual harvest may be less than or more than the harvest guideline.

(2) General cougar season is September 1 to ((April 30)) March 31 of the following year.

Season dates and harvest guidelines for each season:

Hunt Area	Harvest Guideline	Early Hunting Season	Late Hunting Season	Legal Weapon
GMU 101	7-9	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMU 105	2	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMUs 108, 111	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMU 113	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMU 117	6-8	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMU 121	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMUs 124, 127, 130	7-9	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMUs 133, 136, 139, 142, 248, 254, 260, 262, 266, 269, 272, 278, 284, 290, 330, 334, 371, 372, 373, 379, 381	None	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMUs 149, 154, 162, 163	4-5	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMUs 145, 166, 175, 178	3-4	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMUs 169, 172, 181, 186	((3)) <u>3-4</u>	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMU 203	5	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMU 204	6-8	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMUs 209, 215	4	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMUs 218, 231	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMU 224	2	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon
GMUs 233, 239	4	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) <u>Dec. 16 - Mar. 31</u>	Any Legal Weapon

Hunt Area	Harvest Guideline	Early Hunting Season	Late Hunting Season	Legal Weapon
GMUs 242, 243	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 244, 246, 247	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 245, 250	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 249, 251	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 328, 329, 335	6-7	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 336, 340, 342, 346	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 352, 356, 360, 364, 368	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 382, 388	3-4	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMU 407	None	Sept. 1 - Dec. ((31)) <u>5</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 418, 426, 437	11-15	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 448, 450	10-13	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMU 454	None	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMU 460	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 466, 485, 490	3	Sept. 1 - Dec. ((31)) <u>5</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 501, 504, 506, 530	8-10	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 503, 505, 520, 550	6-8	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 510, 513	3-4	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMU 516	4	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 524, 554, 556	3	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMU 560	5-6	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMU 564	1	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMU 568	2	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMU 572	3	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon

Hunt Area	Harvest Guideline	Early Hunting Season	Late Hunting Season	Legal Weapon
GMUs 574, 578	4	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 601, 602, 603, 612	5-7	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 607, 615	4	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 618, 636, 638	4-5	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 621, 624, 627, 633	None	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 642, 648, 651	6-8	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 652, 666	None	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 653, 654	5	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMUs 658, 660, 663, 672, 673, 681, 684, 699	9-12	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon
GMU 667	3-4	Sept. 1 - Dec. ((31)) <u>15</u>	((Jan. 1 - Apr. 30)) Dec. 16 - Mar. 31	Any Legal Weapon

(a) In hunt areas with a harvest guideline, the cougar late hunting season may close on or after ((January 1st)) December 16th in one or more GMUs if cougar harvest meets or exceeds the guideline.

(b) In hunt areas with a harvest guideline, starting ((January 1st)) December 16th, cougar hunters may hunt cougar from ((January 1st)) December 16th until the hunt area harvest guideline has been met, and the department has notified licensed cougar hunters by posting the hunt area closure on the department's web site and on the toll-free cougar hunting hotline, or ((April 30th)) March 31st, whichever occurs first.

(3) Harvest guideline system:

(a) All cougar killed by licensed hunters during the early and late hunting seasons, and seasons authorized under WAC 220-440-030 shall be counted toward the harvest guideline.

(b) Individual problem cougar will continue to be killed on an as-needed basis utilizing depredation permits, land-owner kill permits, and WDFW depredation authority regardless of harvest guidelines.

(c) It is each cougar hunter's responsibility to verify if the cougar late hunting season is open or closed in hunt areas with a harvest guideline. Cougar hunters can verify if the season is open or closed by calling the toll-free cougar hunting hotline or visiting the department's web site.

(4) Cougar hunting season requirements and special restrictions.

(a) A valid big game hunting license which includes cougar as a species option is required to hunt cougar.

(b) The statewide bag limit is one (1) cougar per license year; excluding removals authorized under WAC 220-440-030. It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens.

(c) The use of dogs to hunt cougar is prohibited; except by a commission authorized permit (WAC 220-440-030).

(d) Any person who takes a cougar must comply with the notification and sealing requirements in WAC 220-400-050.

(e) A special cougar permit is required to hunt cougar in GMU 485.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-415-120 ((2017)) 2018 Bighorn sheep seasons and permit quotas. (1) It is unlawful to fail to comply with the provisions of this section. A violation of species, sex, size, number, area, season, or eligibility requirements is punishable under RCW 77.15.410, Unlawful hunting of big game—Penalty.

(2) Bighorn Sheep Permit Hunts

(a) **Who May Apply:** Anyone may apply, EXCEPT those who previously harvested a bighorn sheep in Washington state. An individual may only harvest one bighorn ram during his or her lifetime. However, this restriction is waived for hunters who have previously harvested a bighorn sheep under a ewe-only, juvenile ram, raffle, or auction permit, as well as for applications for a ewe-only, juvenile ram, raffle, or auction permit.

(b) **Bag Limit:** One bighorn ram, except in designated adult ewe hunts the limit is one bighorn adult ewe.

<u>Hunt Name</u>	<u>Permit Season</u>	<u>Permit Hunt Boundary Description</u>	<u>Special Restrictions</u>	<u>Permits</u>
Selah Butte A	Nov. 7-30	Sheep Unit 4	Any Legal Weapon	2
Umtanum	Sept. 15 - Oct. 10	Sheep Unit 5	Any Legal Weapon	2
Cleman Mountain A	Sept. 15 - Oct. 10	Sheep Unit 7	Any Legal Weapon	3
Cleman Mountain D	Nov. 13-30	Sheep Unit 7	Adult ewe only Any Legal Weapon	10
Mt. Hull A	Sept. 15 - Oct. 10	Sheep Unit 10	Any Legal Weapon	1
Mt. Hull B	Oct. 1-10	Sheep Unit 10	Adult ewe only Any Legal Weapon	1
Mt. Hull C*	Oct. 1-10	Sheep Unit 10	Adult ewe only Any Legal Weapon	1
Lincoln Cliffs	Sept. 15 - Oct. 10	Sheep Unit 12	Any Legal Weapon	1
Quilomene	Sept. 15 - Oct. 10	Sheep Unit 13	Any Legal Weapon	2
Swakane	Sept. 15 - Oct. 10	Sheep Unit 14	Any Legal Weapon	2
Manson	Nov. 7-30	Sheep Unit 16	Any Legal Weapon	2
Chelan Butte A	Sept. 15 - Oct. 10	Sheep Unit 18	Any Legal Weapon	2
(New hunt category) Chelan Butte B Juvenile ram - Disabled hunter ^b	Oct. 11-31	Sheep Unit 18	Any Legal Weapon Juvenile ram ^e	2
Chelan Butte C - Disabled hunter ^b	Oct. 11-31	Sheep Unit 18	Any Legal Weapon Adult ewe only	2))

<u>Hunt Name</u>	<u>Permit Season</u>	<u>Permit Hunt Boundary Description</u>	<u>Special Restrictions</u>	<u>Permits</u>
<u>Ram (male) bighorn sheep only</u>				
Lincoln Cliffs A	Sept. 15 - Oct. 10	Sheep Unit 12	Any Legal Weapon	1
Mt. Hull A	Sept. 15 - Oct. 10	Sheep Unit 10	Any Legal Weapon	1
Swakane	Sept. 15 - Oct. 10	Sheep Unit 14	Any Legal Weapon	2
Chelan Butte A	Sept. 15 - Oct. 10	Sheep Unit 18	Any Legal Weapon	2
Chelan Butte B	Oct. 11 - Nov. 15	Sheep Unit 18	Any Legal Weapon	2
Manson	Nov. 7 - Nov. 30	Sheep Unit 16	Any Legal Weapon	2
Selah Butte	Nov. 7 - Nov. 30	Sheep Unit 4	Any Legal Weapon	2
Umtanum	Sept. 15 - Oct. 10	Sheep Unit 5	Any Legal Weapon	2
Cleman Mountain A	Sept. 15 - Oct. 10	Sheep Unit 7	Any Legal Weapon	3
Quilomene	Sept. 15 - Oct. 10	Sheep Unit 13	Any Legal Weapon	2
<u>Ewe (female) bighorn sheep only</u>				
Lincoln Cliffs B West	Oct. 1-10	Sheep Unit 12 west of Mount View Rd	Adult ewe only Any Legal Weapon	1
Lincoln Cliffs B East	Oct. 1-10	Sheep Unit 12 east of Mount View Rd	Adult ewe only Any Legal Weapon	1
Mt. Hull B	Oct. 1-10	Sheep Unit 10	Adult ewe only Any Legal Weapon	1
Mt. Hull C (youth hunter) ^a	Oct. 1-10	Sheep Unit 10	Adult ewe only Any Legal Weapon	1

<u>Hunt Name</u>	<u>Permit Season</u>	<u>Permit Hunt Boundary Description</u>	<u>Special Restrictions</u>	<u>Permits</u>
<u>Chelan Butte C</u>	<u>Sept. 15 - Oct. 10</u>	<u>Sheep Unit 18</u>	<u>Adult ewe only</u> <u>Any Legal Weapon</u>	<u>4</u>
<u>Chelan Butte D (disabled hunter)^b</u>	<u>Oct. 11-31</u>	<u>Sheep Unit 18</u>	<u>Adult ewe only</u> <u>Any Legal Weapon</u>	<u>3</u>
<u>Cleman Mountain B</u>	<u>Oct. 11-31</u>	<u>Sheep Unit 7</u>	<u>Adult ewe only</u> <u>Any Legal Weapon</u>	<u>10</u>
Juvenile ram (male) bighorn sheep only				
<u>Chelan Butte E (disabled hunter)^b</u>	<u>Oct. 11-31</u>	<u>Sheep Unit 18</u>	<u>Any Legal Weapon</u> <u>Juvenile ram^c</u>	<u>2</u>

^aApplicants must be eligible to purchase a youth bighorn sheep permit application. An adult 18 years of age or older must accompany the youth hunter during the hunt.

^bApplicants must possess a Disabled Hunter Permit.

^cA juvenile ram is defined as a male bighorn sheep having at least one "unbroomed" horn that does not extend past an imaginary line beginning at the point on the animal's forehead where the front of the horn base adjoins the skull, and continuing downwards and in a posterior direction through the posterior edge of the eye. A "broomed" horn is defined as a sheep horn that has been broken, splintered, frayed or rubbed in the wild, thus shortening its length and disrupting its natural taper.

(3) Bighorn Sheep Units:

(a) **Sheep Unit 2 Vulcan Mountain:** Permit Area: Ferry County north of the Kettle River near Curlew.

(b) **Sheep Unit 4 Selah Butte:** Permit Area: That part of GMU 340 east of the Yakima River.

(c) **Sheep Unit 5 Umtanum:** Permit Area: Those portions of GMU 340 west of the Yakima River and GMU 342 north of Wenatchee Creek.

(d) **Sheep Unit 7 Cleman Mountain:** Permit Area: GMU 346 and that part of GMU 342 south of Wenatchee Creek.

(e) **Sheep Unit 10 Mt. Hull:** Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along U.S. Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake Andrews; then east to the Dry Gulch Road; then north to the Oroville-Toroda Creek Road (Molson Grade Road); then west to Oroville and the point of beginning.

(f) **Sheep Unit 12 Lincoln Cliffs:** Permit Area: That part of Lincoln County north of Highway 2.

(g) **Sheep Unit 13 Quilomene:** Permit Area: GMUs 329, 330, and that part of 251 east of Squilchuck Creek and south of Colockum Creek.

(h) **Sheep Unit 14 Swakane:** Permit Area: GMU 250.

(i) **Sheep Unit 15 Tieton:** Permit Area: GMU 360.

(j) **Sheep Unit 16 Manson:** Permit Area: Beginning at the mouth of Granite Falls Creek on the south shore of Lake Chelan, E across Lake Chelan to Willow Point; NW along the shoreline of Lake Chelan to the mouth of Stink Creek; E along Stink Creek to the intersection with Green's Landing Road; along Green's Landing Road to Manson Boulevard; E on Manson Boulevard to Lower Joe Creek Road; NE on Lower Joe Creek Road to Grade Creek Road; NE on Grade Creek Road to US Forest Service Road 8210; NE on US Forest Service Road 8210 to intersection with US Forest Service Road 8020; W on US Forest Service Road 8020 to Fox Peak; NW along Sawtooth Ridge (Chelan-Okanogan County Line) to the Lake Chelan National Recreation Area boundary; S along the Lake Chelan National Recreation Area boundary to shore line of Lake Chelan; W across Lake Chelan to the

mouth of Riddle Creek on the South Shore; SE along South Shore of Lake Chelan to the point of beginning.

(k) **Sheep Unit 18 Chelan Butte:** Permit Area: Beginning at the intersection of State Hwy 971 and US Hwy 97A, S to the W shoreline of the Columbia River, N along the W shoreline of the Columbia River for 21 miles to the mouth of Antoine Creek, W up Antoine Creek to where it crosses Apple Acres Rd, W on Apple Acres Rd to the intersection with Washington Creek Rd (US Forest Service Rd 8135), N on Washington Creek Rd to its end and then follow Washington Creek, W on Washington Creek to where it crosses US Forest Service Rd 8010, S on US Forest Service Rd 8010 (transitions into Purteman Creek Rd) to Purteman Gulch, S into Purteman Gulch to the N shoreline of Lake Chelan, S along the shoreline to the S shoreline of Lake Chelan to the mouth of First Creek, S up First Creek to the intersection of State Hwy 971 (Navarre Coulee Rd), S on State Hwy 971 to the point of beginning.

(l) **Sheep Unit 19 Sinlahekin:** Beginning at the eastern boundary of the Pasayten Wilderness border and the US-Canadian border; E on the US-Canadian border to the border station on Similkameen Rd (Co. Rd 4568); SE on the Similkameen Rd (Co. Rd 4568) to the Loomis-Oroville Rd (Co. Rd 9425); E on the Loomis-Oroville Rd (Co. Rd 9425) to US Hwy 97 in Oroville; S on US Hwy 97 to 12th Ave; W on 12th Ave (it curves S and changes to Old Highway 97); S on Old Highway 97 to US Hwy 97; S on US Hwy 97 to the South Pine Creek Rd (Co. Rd 9410); W on the South Pine Creek Rd (Co. Rd 9410) to Fish Lake Rd (Co. Rd 4290); W on Fish Lake Rd (Co. Rd 4290) to South Fish Lake Rd (Co. Rd 4282), along the south shore of Fish Lake; SW on South Fish Lake Rd (Co. Rd 4282), to the Sinlahekin Rd (Co. Rd 4015); SW on the Sinlahekin Rd (Co. Rd 4015), along the north shore of Conconully Lake, to the Salmon Creek North Fork Rd (Co. Rd 2361), at the town of Conconully; N on US Forest Service Rd 38 (Salmon Creek North Fork Rd, Co. Rd 2361) to US Forest Service Rd 3820; N on US Forest Service Rd 3820 over Lone Frank Pass, to US Forest Service Rd 39; N on US Forest Service Rd 39 to the US Forest Service Rd

300 at Long Swamp trailhead; W on the US Forest Service Rd 300 to US Forest Service Trail 342; N on US Forest Service Trail 342 to US Forest Service Trail 343; E on US Forest Service Trail 343 to US Forest Service Trail 341; E on US Forest Service Trail 341 to US Forest Service Trail 375; E on US Forest Service Trail 375 to the eastern boundary of the Pasayten Wilderness Area; N on the Pasayten Wilderness Area boundary to the US-Canadian border and the point of beginning.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-415-130 ((2015-2017)) 2018 Mountain goat seasons and permit quotas. (1) Hunters must comply with the provisions of this section. A violation of species, sex, size, number, area, season, or eligibility requirements is pun-

ishable under RCW 77.15.410, Unlawful hunting of big game—Penalty.

(2) Mountain Goat Permit Hunts

(a) **Who May Apply:** Anyone may apply, except those who harvested a mountain goat in Washington state after 1998. Except for auction and raffle permitted hunts, an individual may only harvest one mountain goat during his or her lifetime.

(b) **Bag Limit:** One (1) adult goat of either sex with horns 4 inches or longer.

(c) It is unlawful for a person who kills a mountain goat in Washington to fail, within ten days after acquisition, to personally present the horns attached to the head for inspection at a department office or location designated by a departmental representative. After inspection, the head/horns of a mountain goat lawfully killed in Washington may be kept for personal use. A violation of this subsection is punishable under RCW 77.15.280 (1)(b).

((Goat Hunt Area Name (Number))	Permit Season^b	Subhunt Units (may be opened or closed by the director)*	Special Restrictions	Permits^a
Chowder Ridge (4-3)	Sept. 15 – Nov. 30		Any Legal Weapon	+
Lincoln Peak (4-4)	Sept. 15 – Nov. 30		Any Legal Weapon	2
Dillard Creek (4-6)	Sept. 15 – Nov. 30		Any Legal Weapon	0
Avalanche Gorge (4-7)	Sept. 15 – Nov. 30		Any Legal Weapon	3
North Lake Chelan (2-1)	Sept. 15 – Nov. 30	Skookum Pass Mtn., Big Goat Creek	Any Legal Weapon	2
Boulder River North (4-8a)	Sept. 15 – Nov. 30		Any Legal Weapon	+
Naches Pass (3-6)	Sept. 15 – Nov. 30	Fife's East, Fife's Peak, Crystal Mountain, Basin Lake	Any Legal Weapon	3
Bumping River (3-7)	Sept. 15 – Nov. 30	Nelson Ridge, Cash Prairie, American Ridge, American Lake, Timber Wolf, Russell Ridge	Any Legal Weapon	3
Blazed Ridge (3-10)	Sept. 15 – Nov. 30	Blowout Mtn., Blazed Ridge, Blazed North, Milk Creek, Rock Creek	Any Legal Weapon	0
Goat Rocks Tieton River (5- 4/3-9)	Sept. 15 – Nov. 30	Chimney Rocks, Goat Lake, McCall Glacier, Gil- bert Peak	Any Legal Weapon	5
South Lake Chelan (2-3)	Sept. 15 – Nov. 30	Railroad Creek, Pyramid Mountain, Box Canyon	Any Legal Weapon	+
Conflict reduction goat (new hunt type)				
East Olympic Mountains A ^c	Sept. 15 – 25	N/A	Any Legal Weapon	3
East Olympic Mountains B ^c	Sept. 26 – Oct. 6	N/A	Any Legal Weapon	3

^aThis is a new hunt type.) (d) Applicants drawn for a permit may only purchase their license after successfully completing the WDFW online mountain goat gender identification test with a passing score (80% or higher). The test may be taken repeatedly until a passing score is achieved.

<u>Goat Hunt Area Name (Number)</u>	<u>Permit Season</u>	<u>Special Restrictions</u>	<u>Permits</u>
<u>North Lake Chelan (2-1)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>2</u>
<u>South Lake Chelan (2-3)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>1</u>
<u>Naches Pass (3-6)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>1</u>
<u>Bumping River (3-7)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>3</u>
<u>Boulder River North (4-8a)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>1</u>
<u>Chowder Ridge (4-3)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>1</u>
<u>Lincoln Peak (4-4)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>2</u>
<u>Avalanche Gorge (4-7)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>3</u>
<u>Goat Rocks West (5-4)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>2</u>
<u>Goat Rocks East (5-5)</u>	<u>Sept. 15 - Nov. 30^a</u>	<u>Any Legal Weapon</u>	<u>3</u>
<u>Mt. Margaret Backcountry (5-6)</u>	<u>Oct. 1 - Nov. 30</u>	<u>Any Legal Weapon</u>	<u>1</u>
<u>Mt. St. Helens South (5-7)</u>	<u>Oct. 1 - Nov. 30</u>	<u>Any Legal Weapon</u>	<u>1</u>
<u>East Olympic Mountains A¹</u>	<u>Sept. 15 - 25</u>	<u>Any Legal Weapon</u>	<u>3</u>
<u>East Olympic Mountains B¹</u>	<u>Sept. 26 - Oct. 6</u>	<u>Any Legal Weapon</u>	<u>3</u>

^aPoints accrued or spent on this hunt do not apply to other mountain goat hunts.

^aPermit holders hunting with archery equipment may start hunting September 1.

(3) Mountain Goat Hunt Area Descriptions. The following areas are defined as mountain goat hunt areas:

Chowder Ridge 4-3:

Hunt Area: Whatcom County within the following described boundary: Beginning at the confluence of Wells Creek with the North Fork Nooksack River; then up Wells Creek to the confluence with Bar Creek; then up Bar Creek to the Mazama Glacier; then SW on Mazama Glacier to the summit of Mount Baker; then NW between Roosevelt Glacier and Coleman Glacier to the headwaters of Kulshan Creek; then down Kulshan Creek to the confluence with Grouse Creek; then down Grouse Creek to the confluence with Glacier Creek; then down Glacier Creek to the confluence with the North Fork Nooksack River; then up the North Fork Nooksack River to Wells Creek and the point of beginning.

Lincoln Peak 4-4

Hunt Area: Whatcom County within the following described boundary: Beginning at the confluence of Glacier Creek and the North Fork Nooksack River; then up Glacier Creek to the confluence with Grouse Creek; then up Grouse Creek to the confluence with Kulshan Creek; then up Kulshan Creek to headwaters; then SE between Coleman and Roosevelt glaciers to the summit of Mount Baker; then SW on Easton Glacier to Baker Pass; then W on the Bell Pass Trail (USFS Trail 603.3) to the intersection with Ridley Creek Trail (Trail No. 696); then W on Ridley Creek Trail to Ridley Creek; then down Ridley Creek to the Middle Fork Nooksack River; then down the Middle Fork Nooksack River to the confluence with Clearwater Creek, then up Clearwater Creek to the confluence with Rocky Creek, then up Rocky Creek to the Washington DNR boundary; then along the National Forest-Washington DNR boundary to Hedrick Creek; then down Hedrick Creek to the North Fork Nooksack River; then up the North Fork Nooksack River to Glacier Creek and the point of beginning.

Dillard Creek 4-6

Hunt Area: Whatcom County within the following described boundary: Beginning on Baker Lake Road and Rocky Creek; then NW up Rocky Creek to its intersection with the Park Butte Trail (Trail No. 603); then NW on Park Butte Trail to its intersection with the Bell Pass Trail (Trail No. 603.3); then N on Bell Pass Trail to Baker Pass; then N onto Easton Glacier and NE to the summit of Mount Baker; then NE and SE on Park Glacier to headwaters of Park Creek; then down Park Creek to Baker Lake Road; then SW on Baker Lake Road to Rocky Creek and the point of beginning.

Avalanche Gorge 4-7

Hunt Area: Whatcom County within the following described boundary: Beginning on Baker Lake Road and Park Creek; then up Park Creek to headwaters and beginning of Park Glacier; then NW and SW on Park Glacier to Mount Baker summit; then N on the Mazama Glacier to Bar Creek, then down Bar Creek to the confluence with Wells Creek; then SE up Wells Creek to its headwaters; then E about 1 mile to an unnamed peak (indicated elevation 5,831 ft, just W of Ptarmigan Ridge Trail (Trail No. 682.1) (See referenced 1:24k USGS quad map - Shuksan Arm)); then NE to the headwaters of the first tributary of Swift Creek encountered; then SE down said unnamed tributary to the confluence with Swift Creek; then down Swift Creek to the Baker Lake Road (USFS Road 394); then SW along the Baker Lake Road to Park Creek and point of beginning. (Refer to 1:24k USGS quad map - Shuksan Arm).

Chelan North 2-1

Permit Area: Beginning at the mouth of Fish Creek on Lake Chelan (Moore Point); then northeast up Fish Creek and USFS trail 1259 to the Sawtooth crest near Deephole Spring; then southeast along the Sawtooth crest, which separates Chelan and Okanogan counties, to Horsethief Basin and the headwaters of Safety Harbor Creek; then south along Safety

Harbor Creek to Lake Chelan, then northwest along the north shore of Lake Chelan to the mouth of Fish Creek at Moore Point and the point of beginning.

Methow 2-2

Permit Area: Okanogan County within following described boundary: Begin at Twisp, W along Twisp River Rd (County Rd 4440) to Roads End; W up Twisp Pass Trail 432 to Twisp Pass and Okanogan County line; N on Okanogan County line through Washington Pass to Harts Pass; SE down Harts Pass (Rd 5400) to Lost River; along Lost River-Mazama Rd to Mazama; SW to State Hwy 20; SE on State Hwy 20 to Twisp and point of beginning.

South Lake Chelan 2-3

Permit Area: GMU 246

Naches Pass 3-6

Permit Area - Naches: Yakima and Kittitas counties within the following described boundary: Beginning at Chinook Pass; then north along the Pacific Crest Trail to Naches Pass; then east to USFS Road 19 and continuing to State Highway 410; then west along State Highway 410 to Chinook Pass and point of beginning.

Bumping River 3-7

Permit Area: Beginning on US Forest Service Trail 2000 (Pacific Crest Trail) and SR 410 at Chinook Pass; NE on SR 410 to US Forest Service Rd 1800 (Bumping Lake Rd); SW on the US Forest Service Rd 1800 (Bumping Lake Rd) to US Forest Service Trail 973 (Richmond Mine Rd); SE on US Forest Service Trail 973 (Richmond Mine Rd) to the north fork of Rattlesnake Creek; SE down the north fork of Rattlesnake Creek to US Forest Service Rd 1502 (McDaniel Lake Rd); SE on US Forest Service Rd 1502 (McDaniel Lake Rd) to US Forest Service Rd 1500; S on US Forest Service Rd 1500 to US Hwy 12; W on US Hwy 12 to US Forest Service Trail 2000 (Pacific Crest Trail) at White Pass; N on the US Forest Service Trail 2000 (Pacific Crest Trail) to SR 410 at Chinook Pass and the point of beginning. (Lands within the boundary of Mt. Rainier National Park along the Pacific Crest Trail are not open to hunting.)

Blazed Ridge 3-10

Permit Area: Kittitas and Yakima counties within the following described boundary: Beginning at the mouth of Cabin Creek on the Yakima River; then west along Cabin Creek to the headwaters near Snowshoe Butte; then south along the Cascade Crest separating the Green and Yakima river drainage to Pyramid Peak; then southeast along the North Fork, Little Naches, and Naches River to the Yakima River; then north along the Yakima River to the mouth of Cabin Creek and point of beginning.

((Goat Rocks 5-4/Tieton River 3-9

Goat Rocks 5-4 Permit Area: Beginning at US Hwy 12 at the US Forest Service Trail 2000 (Pacific Crest National Scenic Trail); S on the Pacific Crest National Scenic Trail to Lewis County line at Cispus Pass; S and W on the Lewis County line to Johnson Creek Rd (US Forest Service Rd 21); N on Johnson Creek Rd to US Hwy 12; E on US Hwy 12 to the Pacific Crest National Scenic Trail and the point of the beginning.

Permit Area - Tieton River: GMU 364

Permit Area - East Olympic Mountains Unit

Beginning at the intersection of Lake Cushman Rd and Jorsted Creek Rd (US Forest Service (USFS) Rd 24); W along Jorsted Creek Rd (USFS Rd 24) to Olympic National Park (ONP) boundary at the northern end of Lake Cushman; N and NE along the ONP-Olympic National Forest (ONF) boundary to the Jefferson-Clallam County line; E along the Jefferson-Clallam County line to its intersection with ONF boundary in Section 33 of T28N R2W; S along the ONF boundary to the intersection of Lake Cushman Rd and Jorsted Creek Rd (US Forest Service (USFS) Rd 24) and the point of beginning.) **Goat Rocks West 5-4: (Lewis County)**, Beginning at US Hwy 12 at the US Forest Service Trail 2000 (Pacific Crest National Scenic Trail); S on the Pacific Crest National Scenic Trail to Lewis County line at Cispus Pass; S and W on the Lewis County line to Johnson Creek Rd (US Forest Service Rd 21); N on Johnson Creek Rd to US Hwy 12; E on US Hwy 12 to the Pacific Crest National Scenic Trail and the point of the beginning.

Goat Rocks East 5-5: (Yakima County): GMU 364 (awaiting JT input)

Permit Area - Boulder River North 4-8a

That area within the Boulder River Wilderness of the Mount Baker Snoqualmie National Forest, beginning at the Boulder River trailhead on U.S. Forest Service (USFS) Rd 2010 (to Boulder Falls), then E along the USFS Boulder River Wilderness boundary to Squire Creek, then southward along the Squire Creek to Squire Creek Pass, then SW up Squire Creek Pass to the headwaters of Copper Creek, then SE down Copper Creek to the unnamed tributary to Copper Creek which heads W up to Windy Pass, then W up said tributary to its headwaters in Windy Pass, then W across Windy Pass to the headwaters of Windy Creek, then W down Windy Creek to the USFS Boulder River Wilderness boundary, then N along the USFS Boulder River Wilderness boundary to the Boulder River trailhead on USFS Rd 2010 and the point of the beginning.

(^aMountain goat populations are managed as a collection of subpopulations, and the ideal harvest is distributed through all the subpopulations. The director is authorized to open or close subhunt areas and reduce permit levels to protect from overharvesting specific areas.

The director is authorized by the commission to identify the subhunt unit as a condition of the hunt permit. Hunters receiving permits will be sent a text description or map of the subhunt unit from the director prior to the start of that hunting season.

^bPermit hunters may start hunting September 1 with archery equipment.))

Permit Area - Mt. Margaret Backcountry 5-6 (Skamania and Lewis counties)(awaiting JT input)

Beginning at the junction of USFS 99 Rd and USFS 26 Rd; South on USFS 99 Rd to junction of USFS 99 Rd and USFS Trail 227 at Independence Pass trailhead; North on USFS Trail 227 to junction of USFS Trail 227 and USFS Trail 1; West on USFS Trail 1 to junction of USFS Trail 1 and USFS Trail 230; Northwest on USFS Trail 230 to junction of USFS

Trail 230 and USFS Trail 211; Northeast to Minnie Peak; West to the USFS property boundary in the SE 1/4 of Section 20, T10N, R5E; North along the USFS property boundary to the Green River; East up the Green River to USFS Rd 2612; East on USFS 2612 to the junction of USFS Rd 2612 and USFS Rd 26; South on USFS Rd 26 to the junction of USFS Rd 26 and USFS Rd 99 and point of beginning.

Permit Area - Mt. St. Helens South 5-7 (Skamania and Cowlitz counties)(awaiting JT input)

Beginning at the junction of USFS Trail 234 and USFS Rd 83; West on USFS Rd 83 to the junction of USFS Rd 83 and USFS Rd 81; Northwest on USFS Rd 81 to the junction of USFS Rd 81 and USFS Rd 8123; North on USFS Rd 8123 to USFS Trail 238 at Blue Lake; North on USFS Trail 238 to USFS Trail 216; North on USFS Trail 216 to the South Fork Toutle River; Up the South Fork Toutle River to Mt. St. Helens crater's edge; East along Mt. St. Helens crater to Ape Canyon Creek; Down Ape Canyon Creek to USFS Trail 216; East on USFS Trail 216 to USFS Trail 234; Southeast on USFS Trail 234 to USFS Rd 83 and point of beginning.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-416-010 ((2015-16, 2016-17, 2017-18))

2018-2019, 2019-2020, 2020-2021 Small game and other wildlife seasons and regulations. Hunters must comply with the bag, possession, and season limits described in this section. Failure to do so constitutes a violation of RCW 77.15.245, 77.15.400, or 77.15.430, depending on the species hunted and the circumstances of the violation.

STATEWIDE SEASONS

(1) FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

(a) DAILY BAG LIMIT: 4 grouse per day, to include not more than 3 Blue Grouse, 3 Spruce Grouse, and 3 Ruffed Grouse.

(b) POSSESSION LIMIT: 12 grouse, to include not more than 9 Blue Grouse, 9 Spruce Grouse, and 9 Ruffed Grouse.

(c) SEASON DATES: Sept. 1 - Dec. 31 during the current license year.

(2) BOBCAT

(a) BAG AND POSSESSION LIMITS: No limit.

(b) SEASON DATES: Sept. 1 - Mar. 15 during the current license year.

(c) RESTRICTION: It is unlawful to hunt bobcat with dogs.

Night hunting for bobcat is prohibited in GMUs that fall within the lynx management zones identified by the department.

(3) RACCOON

(a) BAG AND POSSESSION LIMITS: No limit.

(b) OPEN AREA: Statewide((—EXCEPT closed on Long Island within Willapa National Wildlife Refuge)).

(c) SEASON DATES: Sept. 1 - Mar. 15 during the current license year.

(4) FOX

(a) BAG AND POSSESSION LIMITS: No limit.

(b) OPEN AREA: Statewide, EXCEPT closed within the exterior boundaries of the Mount Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests.

(c) SEASON DATES: Sept. 1 - Mar. 15 during the current license year.

(5) COYOTE

(a) BAG AND POSSESSION LIMITS: No limit.

(b) OPEN AREA: Statewide.

(c) SEASON DATES: Year-round.

(d) RESTRICTION: It is unlawful to hunt coyote with dogs.

(6) COTTONTAIL RABBIT AND SNOWSHOE HARE (OR WASHINGTON HARE)

(a) BAG AND POSSESSION LIMITS: 5 cottontails or snowshoe hares per day, with a total of 15 in possession at any time, straight or mixed bag.

(b) SEASON DATES: Sept. 1 - Mar. 15 during the current license year.

(7) CROWS

(a) BAG AND POSSESSION LIMITS: No limit.

(b) SEASON DATES: Sept. 1 - Dec. 31 during the current license year.

(8) JACKRABBIT:

Closed statewide.

(9) PTARMIGAN, SAGE, AND SHARP-TAILED GROUSE:

Closed statewide.

(10) WILD TURKEY:

(a) YOUTH SEASON: Open only to youth hunters accompanied by an adult 18 years of age or older.

(i) LEGAL BIRD: Male turkeys and turkeys with visible beards only.

(ii) SEASON DATES:

(A) April ((4-5, 2015)) 6-7, 2019;

(B) April ((2-3, 2016)) 4-5, 2020;

(C) April ((1-2, 2017)) 3-4, 2021; and

(D) April ((7-8, 2018)) 2-3, 2022.

(b) SPRING SEASON

(i) LEGAL BIRD: Male turkeys and turkeys with visible beards only.

(ii) SEASON DATES: April 15 - May 31 during the current license year.

(iii) BAG LIMIT: The combined spring/youth season limit is 3 birds. Only 2 turkeys may be killed in Eastern Washington, except only one (1) may be killed in Chelan, Kittitas, or Yakima counties. One (1) turkey may be killed per year in Western Washington outside of Klickitat County. Two (2) turkeys may be killed in Klickitat County.

(c) ((EARLY)) FALL GENERAL SEASON

(i) LEGAL HUNTER: Open to all hunters with a valid turkey tag.

(ii) OPEN AREA: GMUs 101-154 and 162-186, 382, 388, 568-578.

(iii) SEASON DATES:

(A) Sept. ((19 Oct. 16, 2015)) 1 - Dec. 31, 2018, (GMUs 101-154 and 162-186;

(B) Sept. ((17 Oct. 14, 2016)) 22 - Oct. 12, 2018, (GMUs ((145-154, 162-186)) 382, 388, 568-578);

(C) Sept. ((17 Oct. 31, 2016, (GMUs 101-142)) 1 - Dec. 31, 2019, (GMUs 101-154 and 162-186);

(D) Sept. ((23 Oct. 13, 2017)) 28 - Oct. 11, 2019, (GMUs ((145-154, 162-186)) 382, 388, 568-578);

(E) Sept. ((23 Oct. 31, 2017, (GMUs 101-142))) 1 - Dec. 31, 2020, (GMUs 101-154 and 162-186);

(F) Sept. 26 - Oct. 16, 2020, (GMUs 382, 388, 568-578).

(iv) BAG LIMIT: ((~~Three (3)~~) Four (4)) turkeys during the ((~~early~~) fall general season with the following area restrictions:

Game Management Units (GMUs)	Legal Bird and Limit
((105-121	Two (2) beardless turkeys
101, 145-154, 162-186)) 382, 388, 568-578	One (1) either sex turkey

Game Management Units (GMUs)	Legal Bird and Limit
((124-142) <u>101-154 and 162-186</u>	Two (2) beardless plus ((one (+))) <u>two (2)</u> either sex turkey

(d) FALL PERMIT SEASONS

(i) **LEGAL BIRD:** Either sex.

(ii) **LEGAL HUNTER:** All hunters who are selected in the fall turkey special permit drawing and who also possess a valid turkey tag.

Hunt Name	Permit Season Dates	Special Restrictions	Boundary Description	Permits	Bag Limit*
((Klickitat	Sept. 19 - Oct. 16, 2015, Sept. 17 - Oct. 14, 2016, Sept. 23 - Oct. 13, 2017	Either sex	GMUs 382, 388, 568-578	150	+))
Methow	Nov. 15 - Dec. 15, ((2015, 2016, 2017) <u>2018, 2019, 2020</u>	Either sex	GMUs 218-231 and 242	50	1
Teanaway	Nov. 15 - Dec. 15, ((2015, 2016, 2017) <u>2018, 2019, 2020</u>	Either sex	GMU 335	50	1

*BAG LIMIT: During the fall permit hunting seasons.

(e) ((~~LATE FALL SEASON~~

~~(i) LEGAL BIRD: Either sex.~~

~~(ii) LEGAL HUNTER: Open to all hunters with a valid turkey tag.~~

~~(iii) OPEN AREA: GMUs 105-154, 162-186.~~

~~(iv) SEASON DATES: Nov. 20 - Dec. 15 during the current license year.~~

~~(v) BAG LIMIT: One (1) turkey.~~

((f)) HUNTER EDUCATION INSTRUCTOR INCENTIVE PERMITS

(i) **LEGAL BIRD:** Male turkeys and turkeys with visible beards only.

(ii) **LEGAL HUNTER:** Qualified hunter education instructors who are selected through a random drawing. Hunter education instructors qualify if the instructor is certified and has been in active status for a minimum of 3 consecutive years, inclusive of the year prior to the permit drawing.

~~(iii) OPEN AREA: Statewide.~~

~~(iv) SEASON DATES: April 1 - May 31 during the current license year.~~

~~(v) PERMITS: 2 individuals will be drawn for this permit per year.~~

~~(vi) BAG LIMIT: 1 male turkey or turkey with visible beard in addition to other spring season turkey harvest.~~

((g)) ((f)) OFFICIAL HUNTING HOURS FOR WILD TURKEY:

1/2 hour before sunrise to sunset during spring and fall seasons.

((h)) (g) SPECIAL RULES FOR WILD TURKEY:

(i) It is unlawful to hunt turkey unless the hunter possesses a turkey tag.

(ii) It is unlawful to hunt turkeys with dogs.

(iii) It is unlawful to bait game birds.

EASTERN WASHINGTON SEASONS:

((1)) RING-NECKED PHEASANT

(a) **BAG AND POSSESSION LIMITS:** Three (3) cock pheasants per day. Hunters may possess up to 15 cock pheasants at any one time.

(b) **YOUTH SEASON DATES:** Open only to youth hunters accompanied by an adult 18 years of age or older.

(i) Sept. ((~~19-20, 2015~~) 22-23, 2018;

(ii) Sept. ((~~17-18, 2016~~) 28-29, 2019; and

(iii) Sept. ((~~23-24, 2017~~) 26-27, 2020.

(c) **HUNTERS SIXTY-FIVE YEARS OF AGE OR OLDER AND HUNTERS WITH DISABILITIES SEASON DATES:**

(i) Sept. ((~~21-25, 2015~~) 24-28, 2018;

(ii) Sept. ((~~19-23, 2016~~) 30 - Oct. 4, 2019; and

(iii) Sept. ((~~25-29, 2017~~) 28 - Oct. 2, 2020.

((d)) REGULAR SEASON DATES:

(i) Oct. ((~~24, 2015 - Jan. 18, 2016~~) 20, 2018 - Jan. 21, 2019;

(ii) Oct. ((~~22, 2016 - Jan. 16, 2017~~) 19, 2019 - Jan. 20, 2020; and

(iii) Oct. ((~~21, 2017 - Jan. 15, 2018~~) 24, 2020 - Jan. 18, 2021.

(12) CHUKAR

(a) BAG AND POSSESSION LIMITS: 6 chukar per day. Hunters may possess up to 18 chukar at any one time.

(b) YOUTH SEASON DATES: Open only to youth hunters accompanied by an adult 18 years of age or older.

(i) Sept. ((~~19-20, 2015~~) 22-23, 2018;

(ii) Sept. ((~~17-18, 2016~~) 28-29, 2019; and

(iii) Sept. ((~~23-24, 2017~~) 26-27, 2020.

(c) REGULAR SEASON DATES:

(i) Oct. ((~~3, 2015 - Jan. 18, 2016~~) 6, 2018 - Jan. 21, 2019;

(ii) Oct. ((~~1, 2016 - Jan. 16, 2017~~) 5, 2019 - Jan. 20, 2020; and

(iii) Oct. ((~~7, 2017 - Jan. 15, 2018~~) 3, 2020 - Jan. 18, 2021.

(13) GRAY (HUNGARIAN) PARTRIDGE

(a) BAG AND POSSESSION LIMITS: 6 gray partridges per day. Hunters may possess up to 18 gray partridges at any one time.

(b) YOUTH SEASON DATES: Open only to youth hunters accompanied by an adult 18 years of age or older.

((i) Sept. 19-20, 2015;

((ii) Sept. 17-18, 2016; and

((iii) Sept. 23-24, 2017.))

(i) Sept. 22-23, 2018;

(ii) Sept. 28-29, 2019; and

(iii) Sept. 26-27, 2020.

(c) REGULAR SEASON DATES:

((i) Oct. 3, 2015 - Jan. 18, 2016;

((ii) Oct. 1, 2016 - Jan. 16, 2017; and

((iii) Oct. 7, 2017 - Jan. 15, 2018.))

(i) Oct. 6, 2018 - Jan. 21, 2019;

(ii) Oct. 5, 2019 - Jan. 20, 2020; and

(iii) Oct. 3, 2020 - Jan. 18, 2021.

(14) MOUNTAIN QUAIL

Closed throughout Eastern Washington.

(15) CALIFORNIA (VALLEY) QUAIL AND NORTHERN BOBWHITE

(a) BAG AND POSSESSION LIMITS: 10 quail per day. Hunters may possess up to 30 quail at any one time, straight or mixed bag.

(b) YOUTH SEASON DATES: Open only to youth hunters accompanied by an adult 18 years of age or older.

((i) Sept. 19-20, 2015;

((ii) Sept. 17-18, 2016; and

((iii) Sept. 23-24, 2017.))

(i) Sept. 22-23, 2018;

(ii) Sept. 28-29, 2019; and

(iii) Sept. 26-27, 2020.

(c) REGULAR SEASON DATES:

((i) Oct. 3, 2015 - Jan. 18, 2016;

((ii) Oct. 1, 2016 - Jan. 16, 2017; and

((iii) Oct. 7, 2017 - Jan. 15, 2018.))

(i) Oct. 6, 2018 - Jan. 21, 2019;

(ii) Oct. 5, 2019 - Jan. 20, 2020; and

(iii) Oct. 3, 2020 - Jan. 18, 2021.

WESTERN WASHINGTON SEASONS:**(16) RING-NECKED PHEASANT**

(a) BAG AND POSSESSION LIMITS: 2 pheasants of either sex per day. Hunters may possess up to 15 pheasants at any one time.

(b) YOUTH SEASON DATES: Open only to youth hunters accompanied by an adult 18 years of age or older.

((i) Sept. 19-20, 2015;

((ii) Sept. 17-18, 2016; and

((iii) Sept. 23-24, 2017.))

(i) Sept. 22-23, 2018;

(ii) Sept. 28-29, 2019; and

(iii) Sept. 26-27, 2020.

(c) HUNTERS SIXTY-FIVE YEARS OF AGE OR OLDER AND HUNTERS WITH DISABILITIES SEASON DATES:

((i) Sept. 21-25, 2015;

((ii) Sept. 19-23, 2016; and

((iii) Sept. 25-29, 2017.))

(i) Sept. 24-28, 2018;

(ii) Sept. 30 - Oct. 4, 2019; and

(iii) Sept. 28 - Oct. 2, 2020.

(d) REGULAR SEASON DATES: 8:00 a.m. to 4:00 p.m.

(i) Sept. ((~~26 - Nov. 30, 2015~~) 29 - Nov. 30, 2018;

(ii) Sept. ((~~24 - Nov. 30, 2016~~) 28 - Nov. 30, 2019; and

(iii) Sept. ((~~30 - Nov. 30, 2017~~) 26 - Nov. 30, 2020.

(e) EXTENDED SEASON DATES:

(i) Dec. 1-15, during the current license year.

(ii) 8 a.m. to 4 p.m. only at the following release sites: Belfair, Fort Lewis, Kosmos, Lincoln Creek, Scatter Creek, Skookumchuck, and all Whidbey Island release sites EXCEPT Bayview.

(iii) The department will not release pheasants during the extended season.

(f) SPECIAL RESTRICTION: Western Washington pheasant hunters must choose to hunt only on odd-numbered or even-numbered weekend days from 8:00 - 10:00 a.m. at all units of Lake Terrell, Tenant Lake, Snoqualmie, Skagit, Skookumchuck, and Scatter Creek Wildlife Areas, and all hunting sites on Whidbey Island. Hunters must indicate their choice of odd-numbered or even-numbered weekend days on the Western Washington Pheasant Permit by choosing "odd" or "even." Hunters who select the three day option, hunters possessing a valid disabled hunter permit, hunters 65 years of age or older, and youth hunters may hunt in the morning on both odd-numbered and even-numbered weekend days. Youth hunters must be accompanied by an adult 18 years of age or older, and the adult must have an appropriately marked pheasant permit if hunting.

(17) MOUNTAIN QUAIL

(a) BAG AND POSSESSION LIMITS: 2 mountain quail per day. Hunters may possess up to 4 mountain quail at any one time.

(b) SEASON DATES:

((i) Sept. 26 - Nov. 30, 2015;

((ii) Sept. 24 - Nov. 30, 2016; and

((iii) Sept. 30 - Nov. 30, 2017.))

(i) Sept. 29 - Nov. 30, 2018;

(ii) Sept. 28 - Nov. 30, 2019; and

(iii) Sept. 26 - Nov. 30, 2020.

(18) CALIFORNIA (VALLEY) QUAIL AND NORTHERN BOBWHITE

(a) BAG AND POSSESSION LIMITS: 10 California (valley) quail or northern bobwhite per day. Hunters may possess up to 30 California (valley) quail or northern bobwhite at any one time, straight or mixed bag.

(b) SEASON DATES:

- ((i) Sept. 26 - Nov. 30, 2015;
- ((ii) Sept. 24 - Nov. 30, 2016; and
- ((iii) Sept. 30 - Nov. 30, 2017.))
- (i) Sept. 29 - Nov. 30, 2018;
- (ii) Sept. 28 - Nov. 30, 2019; and
- (iii) Sept. 26 - Nov. 30, 2020.

FALCONRY SEASONS:

(19) UPLAND GAME BIRD AND FOREST GROUSE - FALCONRY

(a) BAG AND POSSESSION LIMITS:

- (i) 2 pheasants (either sex);
- (ii) 6 partridge;
- (iii) 5 California (valley) quail or northern bobwhite;
- (iv) 2 mountain quail (in Western Washington only);
- (v) 3 forest grouse (blue, ruffed, spruce) per day; and
- (vi) Possession limit is twice the daily bag limit.

(b) OPEN AREA: Statewide.

(c) SEASON DATES: Aug. 1 - Mar. 15 during the current license year.

(20) TURKEY - FALCONRY

(a) A turkey tag is required to hunt turkey during the turkey falconry season.

(b) BAG AND POSSESSION LIMITS: One (1) turkey (either sex) per turkey tag, with a maximum of 2 turkeys. Hunters may possess up to 2 turkeys at any one time.

(c) OPEN AREA: Eastern Washington.

(d) SEASON DATES: Sept. 1 - Feb. 15 during the current license year.

(21) COTTONTAIL RABBIT AND SNOWSHOE HARE - FALCONRY

(a) BAG AND POSSESSION LIMITS: 5 cottontails or snowshoe hares per day, straight or mixed bag. Hunters may possess up to 15 cottontails or snowshoe hares at any one time, straight or mixed bag.

(b) OPEN AREA: Statewide.

(c) SEASON DATES: Aug. 1 - Mar. 15 during the current license year.

OTHER SEASONS:

(22) BIRD DOG TRAINING SEASON

(a) Wild upland game birds may be pursued during the dog-training season but may not be killed except during established hunting seasons. A small game license is required to train dogs on wild game birds. A Western Washington Pheasant Permit is required to train dogs on pheasants in Western Washington. Captive raised game birds may be released and killed during dog training if the hunter has proof of lawful acquisition (invoices) and the birds are appropriately marked (WAC 220-450-010 and 220-416-110).

(b) OPEN AREA: Statewide.

(c) SEASON DATES: Aug. 1 - Mar. 31 during the current license year.

(d) Only youth and seniors may train dogs during their respective seasons on designated Western Washington pheasant release sites.

(e) Bird dog training may be conducted year round on areas posted for bird dog training on portions of:

(i) Region One - Espanola (T24N, R40E, E 1/2 of section 16);

(ii) Region Three - Wenas Wildlife Area;

(iii) Region Four - Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area;

(iv) Region Five - Shillapoo/Vancouver Lake Wildlife Area;

(v) Region Six - Scatter Creek Wildlife Area, Fort Lewis Military Base.

(23) YAKAMA INDIAN RESERVATION:

The ((2015-16, 2016-17, and 2017-18)) 2018-2019, 2019-2020, and 2020-2021 upland bird seasons within the Yakama Indian Reservation are the same as the season established by the Yakama Indian Nation.

(24) COLVILLE INDIAN RESERVATION:

The ((2015-16, 2016-17, and 2017-18)) 2018-2019, 2019-2020, and 2020-2021 upland bird seasons within the Colville Indian Reservation are the same as the season established by the Colville Indian Tribe.

AMENDATORY SECTION (Amending WSR 17-10-076, filed 5/3/17, effective 6/3/17)

WAC 220-416-060 ((2017-2018)) 2018-2019 Migratory waterfowl seasons and regulations. Hunters must comply with the bag, possession, and season limits described in this section. Failure to do so constitutes a violation of RCW 77.15.245, 77.15.400, or 77.15.430, depending on the species hunted and the circumstances of the violation.

DUCKS

Statewide: Oct. ((14-18, 2017 and Oct. 21, 2017 - Jan. 28, 2018)) 13-31, 2018 and Nov. 3, 2018 - Jan. 27, 2019; except scaup season closed Oct. ((14 - Nov. 3, 2017)) 13 - Nov. 2, 2018.

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. ((16-17, 2017)) 15-16, 2018.

Daily Bag Limit: 7 ducks, to include not more than 2 hen mallard, ((4)) 2 pintail, 3 scaup, 2 canvasback, and 2 redhead statewide; and to include not more than 1 harlequin, 2 scoter, 2 long-tailed duck, and 2 goldeneye in Western Washington.

Possession Limit for Regular Season: 21 ducks, to include not more than 6 hen mallard, ((3)) 6 pintail, 9 scaup, 6 canvasback, and 6 redhead statewide; and to include not more than 1 harlequin, 6 scoter, 6 long-tailed duck, and 6 goldeneye in Western Washington.

Possession Limit for Youth Hunting Weekend: 14 ducks, to include not more than 4 hen mallard, ((2)) 4 pintail, 6 scaup, 4 canvasback, and 4 redhead statewide; and to include not more than 1 harlequin, 4 scoter, 4 long-tailed duck, and 4 goldeneye in Western Washington.

Season Limit: 1 harlequin in Western Washington.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT SEA DUCKS

Hunters must possess a special ((2017-2018)) 2018-2019 hunting authorization and harvest record card for sea ducks when hunting harlequin, scoter, long-tailed duck, and golden-eye in Western Washington. A hunter who has not previously possessed a sea duck harvest report card must submit an application form to Washington state department of fish and wildlife (WDFW). Immediately after taking a sea duck into possession, hunters must record in ink the information required on the harvest record card.

COOT (Mudhen)

Same areas and dates (including youth hunting weekend) as the duck season.

Daily Bag Limit: 25 coots.

Possession Limit: 75 coots.

Possession Limit for Youth Hunting Weekend: 50 coots.

SNIPE

Same areas and dates (except youth hunting weekend) as the duck season.

Daily Bag Limit: 8 snipe.

Possession Limit: 24 snipe.

GESE (except Brant)

Special youth hunting weekend open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. ((16-17, 2017)) 15-16, 2018, statewide.

Daily Bag Limit: 4 Canada geese and 10 white-fronted geese.

Possession Limit: 8 Canada geese and 20 white-fronted geese.

Western Washington Goose Seasons

Goose Management Area 1: Island, Skagit, and Snohomish counties.

September Canada Goose Season

Sept. ((9-14, 2017)) 8-13, 2018.

Daily Bag Limit: 5 Canada geese.

Possession Limit: 15 Canada geese.

Regular Season

Oct. ((4, 2017 - Jan. 28, 2018,)) 13 - Nov. 25, 2018, Dec. 8, 2018 - Jan. 27, 2019, and Feb. 16 - 27, 2019 for snow, Ross', and blue((, and white fronted geese. Oct. 14-26, 2017 and Nov. 4, 2017 - Jan. 28, 2018, for other)) geese (collectively referred to as white geese). During Feb. 16-27, 2019, specified WDFW lands including Fir Island Farm Game Reserve, Island Unit, Johnson DeBay's Slough Swan Reserve and Hunt Unit, Leque Island, Samish, Samish River, South Padilla Bay, and Skagit Headquarters Units of the Skagit Wildlife Area are closed to goose hunting in Goose Manage-

ment Area 1. Oct. 13 - Nov. 25, 2018, and Dec. 8, 2018 - Jan. 27, 2019 for Canada and white-fronted geese (except brant).

Daily Bag Limit: 4 Canada geese ((~~except dusky Canada geese which are closed to harvest~~)), 10 white-fronted geese, and 6 white geese (snow, Ross', blue).

Possession Limit: 12 Canada geese ((~~except dusky Canada geese which are closed to harvest~~)), 30 white-fronted geese, and 18 white geese (snow, Ross', blue).

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT SNOW GEESE

Hunters must possess a special ((2017-2018)) 2018-2019 migratory bird hunting authorization and harvest record card for snow geese when hunting snow, Ross', and blue geese in Goose Management Area 1. A hunter who has not previously possessed a snow goose harvest report card must submit an application form to Washington state department of fish and wildlife (WDFW). Immediately after taking a snow, Ross', or blue goose into possession, hunters must record in ink the information required on the harvest record card.

SKAGIT COUNTY SPECIAL RESTRICTIONS

It is unlawful to discharge a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County or to discharge a firearm for the purpose of hunting snow geese within 100 feet of any paved public road in other areas of Skagit County.

While hunting snow geese, if a hunter is convicted of (a) trespass; (b) shooting from, across, or along the maintained part of any public highway; (c) discharging a firearm for the purpose of hunting waterfowl within 100 feet of any paved public road on Fir Island in Skagit County or discharging a firearm within 100 feet of any paved public road for the purpose of hunting snow geese in other areas of Skagit County; or (d) exceeding the daily bag limit for geese, authorization will be invalidated for the remainder of the current snow goose season and an authorization will not be issued for the subsequent snow goose season.

Goose Management Area 2((~~Clark, Cowlitz, Grays Harbor, Pacific and Wahkiakum counties~~)) - Coast: Pacific County and the portion of Grays Harbor County west of highway 101.

September Canada Goose Season

Sept. 1-9, 2018.

Daily Bag Limit: 5 Canada geese, except 15 Canada geese in Pacific County.

Possession Limit: 15 Canada geese, except 45 Canada geese in Pacific County.

Regular Season

Open in all areas from 30 minutes after the start of official hunting hours to 30 minutes before the end of official hunting hours, 7 days per week during Oct. 13-28, 2018; Saturdays, Sundays, and Wednesdays only, Nov. 1 - Dec. 2, 2018, Dec. 22 - Jan. 20, 2019; and Feb. 2-16, 2019. During Feb. 2-16, 2019, U.S. Fish and Wildlife Service National Wildlife Ref-

uges (NWRs) and WDFW Wildlife Areas are closed to goose hunting in Goose Management Area 2 - Coast.

Bag Limits for Goose Management Area 2 - Coast:

Daily Bag Limit: 4 Canada geese (except dusky Canada geese which are closed to harvest), 10 white-fronted geese, and 6 white geese (snow, Ross', blue).

Possession Limit: 12 Canada geese (except dusky Canada geese which are closed to harvest), 30 white-fronted geese, and 18 white geese (snow, Ross', blue).

Dusky Canada geese: SEASON CLOSED.

Goose Management Area 2 - Inland: Clark, Cowlitz, Wahkiakum counties and the portion of Grays Harbor County east of highway 101.

September Canada Goose Season

Sept. ((2-10, 2017)) 1-9, 2018.

Daily Bag Limit: 5 Canada geese((, ~~except 15 Canada geese in Pacific County~~)).

Possession Limit: 15 Canada geese((, ~~except 45 Canada geese in Pacific County~~)).

Regular Season

Open in all areas except Ridgefield NWR from 30 minutes after the start of official hunting hours to 30 minutes before the end of official hunting hours, 7 days per week during Oct. ((~~14-29, 2017~~) 13-28, 2018; Saturdays, Sundays, and Wednesdays only, Nov. ((~~25, 2017~~ Jan. 14, 2018; and Feb. 10 - Mar. 10, 2018. During Feb. 10 - Mar. 10, 2018)) 24, 2018 - Jan. 13, 2019; and Feb. 9 - Mar. 9, 2019. During Feb. 9 - Mar. 9, 2019, U.S. Fish and Wildlife Service National Wildlife Refuges (NWRs) and WDFW Wildlife Areas are closed to goose hunting in Goose Management Area 2 - Inland. Ridgefield NWR open from 30 minutes after the start of official hunting hours to 30 minutes before the end of official hunting hours, Tuesdays, Thursdays, and Saturdays only, Oct. ((~~14-21, 2017 and Nov. 25, 2017~~ Jan. 13, 2018)) 13-28, 2018 and Nov. 24, 2018 - Jan. 12, 2019.

Bag Limits for Goose Management Area 2 - Inland:

Daily Bag Limit: 4 Canada geese (except dusky Canada geese which are closed to harvest), 10 white-fronted geese, and 6 white geese (snow, Ross', blue).

Possession Limit: 12 Canada geese (except dusky Canada geese which are closed to harvest), 30 white-fronted geese, and 18 white geese (snow, Ross', blue).

Dusky Canada geese: SEASON CLOSED.

Special Provisions for Goose Management Area 2 Coast and Inland Regular Season only:

A dusky Canada goose is defined as a dark-breasted (as shown in the Munsell color chart 10 YR, 5 or less) Canada goose with a culmen (bill) length of 40-50 mm.

Hunters must possess a valid special ((~~2017-2018~~) 2018-2019 migratory bird hunting authorization ((for)) and harvest

record card for geese when hunting all goose species in Goose Management Area 2 ((when hunting geese in Goose Management Area 2)) Coast and Inland. New hunters and those who did not maintain a valid ((2016-2017)) 2017-2018 authorization must review goose identification training materials and score a minimum of 80% on a goose identification test to receive authorization. Hunters who fail a test must wait 28 days before retesting, and will not be issued a reciprocal authorization until that time. Immediately after taking a goose into possession, hunters must record in ink the information required on the harvest record card.

It is unlawful for hunters in Goose Management Area 2 Coast and Inland to fail to comply with the directions of authorized department personnel related to the collection of goose subspecies information pursuant to RCW 77.12.071. A person who prevents department personnel from collecting samples of tissue or other bodily parts is subject to prosecution under RCW 77.15.360 Unlawful interfering in department operations—Penalty. If a hunter takes a dusky Canada goose or does not comply with requirements listed above regarding WDFW collection of subspecies information, authorization will be invalidated by the department and the hunter will not be able to hunt geese in Goose Management Area 2 Coast and Inland for the remainder of the season. It is unlawful to fail to comply with all provisions listed above for Goose Management Area 2 Coast and Inland. Taking one dusky Canada goose is punishable as an infraction under RCW 77.15.160 (5)(b). Other violations of Area 2 goose hunting rules are punishable as an infraction under RCW 77.15.160 (2)(e) or as a misdemeanor or gross misdemeanor under RCW 77.15.400 unlawful hunting of wild birds, depending on the circumstances of the violation.

Goose Management Area 3

Includes all parts of Western Washington not included in Goose Management Areas 1 and 2.

September Canada Goose Season

Sept. ((9-14, 2017)) 8-13, 2018.

Daily Bag Limit: 5 Canada geese.

Possession Limit: 15 Canada geese.

Regular Season

Oct. ((~~14-26, 2017 and Nov. 4, 2017~~ - Jan. 28, 2018)) 13-25, 2018 and Nov. 3, 2018 - Jan. 27, 2019.

Daily Bag Limit: 4 Canada geese (except dusky Canada geese which are closed to harvest), 10 white-fronted geese, and 6 white geese (snow, Ross', blue).

Possession Limit: 12 Canada geese (except dusky Canada geese which are closed to harvest), 30 white-fronted geese, and 18 white geese (snow, Ross', blue).

Eastern Washington Goose Seasons

September Canada Goose Season (Eastern Washington)

Sept. ((~~9-10, 2017~~) 8-9, 2018.

Daily Bag Limit: 5 Canada geese.

Possession Limit: 10 Canada geese.

Goose Management Area 4

Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla counties.

Saturdays, Sundays, and Wednesdays only during Oct. ((~~14, 2017 - Jan. 21, 2018; Nov. 10, 23, and 24, 2017; Dec. 25, 26, 28, and 29, 2017; Jan. 15, 2018~~) 13, 2018 - Jan. 20, 2019; Nov. 12, 22, and 23, 2018; Dec. 24, 25, 27, and 28, 2018; Jan. 1, 2019; and every day Jan. ((~~22-28, 2018~~) 21-27, 2019).

Goose Management Area 5

Includes all parts of Eastern Washington not included in Goose Management Area 4.

Oct. ((~~14-16, 2017~~) 13-29, 2018 and every day from ((~~Oct. 21, 2017 - Jan. 28, 2018~~) Nov. 3, 2018 - Jan. 27, 2019).

Bag Limits for all Eastern Washington Goose Management Areas during regular seasons:

Daily Bag Limit: 4 Canada geese ((~~except dusky Canada geese which are closed to harvest~~)), 10 white-fronted geese, and 6 white geese (snow, Ross', blue).

Possession Limit: 12 Canada geese ((~~except dusky Canada geese which are closed to harvest~~)), 30 white-fronted geese, and 18 white geese (snow, Ross', blue).

BRANT

Open in Skagit County only on the following dates: Jan. ((~~6, 7, 10, 13, 14, 17, 20, and 21, 2018~~) 12, 13, 16, 19, 20, 23, 26, and 27, 2019.

If the ((~~2017-2018~~) 2018-2019) preseason brant population in Skagit County is 3,000-6,000 (as determined by the midwinter waterfowl survey), the brant season in Skagit County will be open only on the following dates: Jan. ((~~6, 10, and 13, 2018~~) 12, 16, and 19, 2019).

If the ((~~2017-2018~~) 2018-2019) preseason brant population in Skagit County is below 3,000 (as determined by the midwinter waterfowl survey), the brant season in Skagit County will be canceled.

Open in Clallam and Whatcom counties only on the following dates: Jan. ((~~6, 10, and 13, 2018~~) 12, 16, and 19, 2019.

Open in Pacific County only on the following dates: Jan. ((~~6, 7, 9, 11, 13, 14, 16, 18, 20, and 21, 2018~~) 12, 13, 15, 17, 19, 20, 22, 24, 26, and 27, 2019.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT BRANT

Hunters must possess a special ((~~2017-2018~~) 2018-2019) migratory bird hunting authorization and harvest record card for brant when hunting brant. A hunter who has not previously possessed a brant harvest report card must submit an application form to Washington state department of fish and wildlife (WDFW). Immediately after taking a brant into possession, hunters must record in ink the information required on the harvest record card.

Bag Limits for Clallam, Skagit, Pacific and Whatcom counties:

Daily Bag Limit: 2 brant.

Possession Limit: 6 brant.

SWANS

Season closed statewide.

MOURNING DOVE

Sept. 1 - Oct. 30, ((~~2017~~) 2018), statewide.

Daily Bag Limit: 15 mourning doves.

Possession Limit: 45 mourning doves.

BAND-TAILED PIGEON

Sept. 15-23, ((~~2017~~) 2018), statewide.

Daily Bag Limit: 2 band-tailed pigeons.

Possession Limit: 6 band-tailed pigeons.

AUTHORIZATION AND HARVEST RECORD CARD REQUIRED TO HUNT BAND-TAILED PIGEONS

Hunters must possess a special ((~~2017-2018~~) 2018-2019) migratory bird hunting authorization and harvest record card for band-tailed pigeons when hunting band-tailed pigeons. A hunter who has not previously possessed a band-tailed pigeon harvest report card must submit an application form to Washington state department of fish and wildlife (WDFW). Immediately after taking a band-tailed pigeon into possession, hunters must record in ink the information required on the harvest record card.

FALCONRY SEASONS

DUCKS, COOTS, SNIPE, GEESE, AND MOURNING DOVES (EXCEPT BRANT) (Falconry)

Same season dates for each species in each area as listed above.

Daily Bag Limit: 3, straight or mixed bag, including ducks, coots, snipe, geese, and mourning doves during established seasons.

Possession Limit: 3 times the daily bag limit.

MOURNING DOVE (Extended Falconry)

Oct. 31 - Dec. 16, ((~~2017~~) 2018).

Daily Bag Limit: 3, straight or mixed bag, including ducks, coots, snipe, and geese during established seasons.

Possession Limit: 3 times the daily bag limit.

HIP REQUIREMENTS:

All hunters of migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon) age 16 and over are required to complete a harvest information program (HIP) survey at a license dealer and possess a Washington migratory bird permit as evidence of compliance with this requirement when hunting migratory game birds. Youth hunters are required to complete a HIP survey and possess a Washington migratory bird permit (free for youth) as evi-

dence of compliance with this requirement when hunting migratory game birds.

AMENDATORY SECTION (Amending WSR 17-05-112, filed 2/15/17, effective 3/18/17)

WAC 220-440-030 ((Public safety cougar removals.))
Wildlife conflict management—Working dog training program. ((1) Definitions:

As used in this section and in the context of public safety cougar removals, the following definitions apply:

(a) "Confirmed" means qualified department staff is led to believe a cougar(s) was at the scene of the incident by interview of the complainant or observation of evidence at the scene.

(b) "Human cougar safety incident" means aggressive or unusual behavior by a cougar which presents an actual or perceived threat to an individual.

(c) "Livestock or pet depredation" means incidents where livestock and/or pets are killed and/or injured by cougar.

(d) "Nuisance activity" means incidents associated with property disturbance, property damage, or livestock/pet harassment.

(e) "Public safety need" means there exists a reasonable threat to human safety or property by one or more cougar, as indicated by the level of confirmed human cougar safety incidents or livestock/pet depredations.

(f) "Removal" means the act of killing one or more cougar with the aid of dogs.

(g) "Sighting" means a confirmed direct observation of one or more cougar, in urban or rural settings, near individuals or residences; typically more than chance observations.

(h) "Human cougar interaction" means a confirmed human cougar safety incident, or confirmed livestock or pet depredation.

(i) "Dog hunter" means a person that owns and hunts with dogs that are capable of detecting, tracking and treeing a cougar.

(2) Public safety cougar removal authorization: The commission authorizes the director to issue public safety cougar removal permits consistent with this rule. Prior to issuing public safety cougar removal permits, the department shall use other practical alternatives to address a public safety need, including livestock or pet depredations. Other practical alternatives may include, but are not limited to, general cougar hunting seasons, general public information, educational programs, information to recreational hunters, cougar depredation/kill permits, and department capture and relocation/euthanasia of specific cougars.

(3) Public safety cougar removal criteria:

(a) The commission determines that when the above practical alternatives have been utilized within a game management unit, an annual or seasonal increase in confirmed human cougar interactions above the 2005-2010 level, therein demonstrates that the practical alternatives have been inadequate to address the public safety need. The director then is authorized by the commission to remove one or more cougar, with the aid of dogs, in a selected area of that game management unit or nearby geographic area suitable for the

use of dogs. The commission authorizes the director to remove one cougar per three hundred square kilometers of complaint area.

(b) If warranted by conditions of this rule, a public safety cougar removal(s) will be conducted annually between December 1st and March 31st in selected areas of game management units designated by the director to address a public safety need presented by one or more cougar.

(c) The department shall not target more than one hundred nine cougar during a public safety cougar removal period unless otherwise authorized by the commission.

(4) Public safety cougar removal permit issuance procedure:

(a) To participate in a public safety cougar removal, individuals must request that his/her name be placed on a list of available participants (participant list) by mailing their request to Washington Department of Fish and Wildlife, Enforcement Program—Public Safety Cougar Removal, 600 Capitol Way North, Olympia, WA 98501-1091. The request must include the individual's name, address, phone number, and game management units being applied for. Individuals may apply for no more than four game management units. An individual's request to be placed on a participant list for a removal period must be postmarked no later than October 15, or be received at the department's Olympia office no later than 5:00 p.m. on October 15, during the year the removal period begins.

(b) To be eligible for a public safety cougar removal permit (permit), the participant must be a Washington resident dog hunter who, at the time of application for a permit, possesses a valid big game license with cougar as a species option. The permit holder must use dogs while participating in a cougar management removal.

(c) Individuals eligible for participation in a public safety cougar removal will be randomly selected from the participant list. The department will issue a permit to the person whose name is selected from the participant list. Individuals selected will be notified by telephone or mail. Individuals selected must contact the department's enforcement program in Olympia and accept the public safety cougar removal permit within fifteen days of being notified. Failure to contact the department will result in forfeit of the permit and the individual will be placed on the participant list for later selections. Permits may not be sold or reassigned.

(d) Permit holders and all individuals who will accompany the permit holder must complete the department's public safety cougar removal education course prior to participating in a public safety cougar removal.

(5) Public safety cougar removals: Quota system and participation in public safety cougar removal:

(a) This is a public safety cougar removal administrated by a WDFW designated coordinator. Permit holders will be contacted on an as-needed basis to conduct removals in portions of GMUs. Not all permit hunters will be contacted in a given year.

(b) Public safety cougar removals will be based on a quota system, where permit holders may hunt cougar until the allotted numbers of cougar have been killed from each game management unit or March 31, whichever is first.

(e) To verify if the public safety cougar removal season is open or closed in each game management unit, the permit holders shall notify the department's enforcement program in Olympia within twenty four hours prior to exercising a public safety cougar removal permit.

(d) No more than four total individuals may participate per public safety cougar removal, including the permit holder(s). Only the permit holder, whose name appears on the permit, may take a cougar.

(e) Hunters killing a cougar during a public safety cougar removal must notify the department's enforcement program in Olympia within twenty four hours after harvesting the cougar.

(f) The department reserves the right to accompany permit holders while participating in a public safety cougar removal.

(6) Public safety cougar removal general requirements.

(a) A valid big game hunting license which includes cougar as a species option is required to hunt cougar.

(b) It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens. Individuals selected for a public safety cougar removal permit may take one cougar per permit.

(c) Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting cougar. The use of dogs to hunt cougar is prohibited except during a public safety cougar removal.

(d) Any person who takes a cougar must notify the department within twenty four hours of kill (excluding legal state holidays) and provide the hunter's name, date and location of kill, and sex of animal. The raw pelt of a cougar must be sealed by an authorized department employee within seventy two hours of the notification of kill. Any person who takes a cougar must present the cougar skull, in such a manner that teeth and biological samples can be extracted, to an authorized department employee at the time of sealing.

(e) The public safety cougar removal permit (permit) belongs to the state of Washington. The permit holder may be required to return to or turn over to the department the permit when, in the judgment of the department, the permit holder violates any conditions of the permit, violates trespass laws while acting under this permit, or violates any other criminal law or hunting regulation of the state while acting under this permit. If the permit holder is required to return to or turn over to the department the permit, the permit holder may request an appeal of that action in accordance with chapter 34.05 RCW. Appeal request shall be filed in writing and returned within twenty days of the date of action and be addressed to WDFW Legal Services Office, 600 Capitol Way North, Olympia, Washington 98501-1091.) (1) Definitions: As used in this section and in the context of the wildlife conflict management - Working dog training program, the following definitions apply:

(a) "Working dogs," often referred to as hounds, means dogs that are especially capable of, and trained for detecting, tracking and treeing cougars.

(b) "Working dog owner" means a person that owns and hunts or pursues with dogs that are capable of detecting, tracking and treeing a cougar.

(c) "Pursuit" means, for the purpose of this section, the nonlethal activity of chasing cougars with working dogs for training purposes under the authorization of a permit issued by the department.

(d) "Bona fide active investigation" means, for the purpose of this section, a person that is under investigation for an alleged crime for which an investigation number (case number) has been recorded.

(2) Working dog training authorization: The department recognizes the need to summon the assistance of trained working dogs to quickly and effectively locate and resolve human-wildlife conflict, and working dog owners have limited access to training opportunities to keep working dogs in peak physical condition and to train young working dogs. Therefore, the commission authorizes the director to issue working dog training permits consistent with this section.

(3) The commission authorizes the director to permit the pursuit of cougar, with the aid of dogs, in a selected area as determined by the department.

(4) Working dog training permit issuance procedure and participation:

(a) The training permit shall include, the training boundary description and specific time period for training activity which may not exceed fifteen days, and a training activity report to be submitted to the department.

(b) To participate in the training permit, individuals must make a request to their local department regional office. The department will place his/her name on a list of participants for consideration.

(c) To participate in a working dog training permit, the participant must be a Washington resident, at the time of application for a permit, possess a valid big game license with cougar as a species option, own working dogs, and must submit to and pass a law enforcement background check. The department shall deny entry to the training permit program to those applicants who have:

(i) Paid the required fine or have been convicted within the last ten years of a chapter 77.15 RCW offense;

(ii) Paid the required fine or have been convicted within the last ten years of criminal trespass, reckless endangerment, criminal conspiracy, or making a false statement to law enforcement, while hunting, fishing, or engaging in any activity regulated by the department;

(iii) Prior felonies prohibiting the possession of firearms, unless firearms possession is reinstated;

(iv) A current hunting or fishing revocation or a current suspension of hunting or fishing license privileges in Washington or any other state;

(v) Within the last ten years entered into a disposition in a criminal court that continued or deferred a case for dismissal upon the successful completion of specific terms or conditions related to a chapter 77.15 RCW offense; or for trespass, reckless endangerment, criminal conspiracy, or making a false statement to law enforcement, while hunting, fishing, or engaging in any activity regulated by the department.

(d) If a permit holder or applicant is cited, or charged by complaint, or is the subject of a bona fide active investigation for a chapter 77.15 RCW offense; or for trespass, reckless endangerment, criminal conspiracy, or making a false state-

ment to law enforcement, while hunting, fishing, or engaging in any activity regulated by the department, the department may immediately suspend that person's permit and/or eligibility until the offense has been adjudicated or the investigation resolved.

(e) Individuals eligible for participation in a training permit will be selected by local department staff from the participant list. The department will issue a permit to selected participants. Individuals selected will be notified by telephone or email.

(f) Permit holders must successfully complete the department's working dog training program education course and meet eligibility conditions established by the department prior to participating in a working dog training program permit.

(g) The working dog training program is administrated by a department coordinator. Permit holders may pursue cougars only within the described boundaries in the GMUs and time periods identified on their permit. Not all interested participants will be permitted annually. There may be years where no training permits will be issued.

(h) No more than four total individuals may be listed on the permit and only those listed may participate in the training activity. The primary permit holder must own the dogs used in the training.

(i) Any person who unintentionally kills a cougar must cease all activity and notify the department's enforcement program immediately after killing the cougar. The carcass must be turned over to the department and remains property of the state.

(j) The department reserves the right to accompany permit holders while participating in a training permit.

(k) Individuals selected for a training permit may not pursue spotted cougar kittens or adult cougars accompanied by spotted kittens and must immediately leash their working dogs and cease the training activity upon encountering a spotted kitten or adult cougar accompanied by kittens.

(l) The department may revoke a permit for any reason including, but not limited to, any participant violating any conditions of the permit, violating trespass laws while acting under this permit, or violating any other criminal law or hunting regulation of the state while acting under this permit. If the permit is revoked, the permit holder may request an appeal of that action in accordance with chapter 34.05 RCW. Appeal request shall be filed in writing and returned within twenty days of revocation and be addressed to: WDFW Legal Services Office, 600 Capitol Way North, Olympia, WA 98501-1091.

chapter 173-360 WAC and adopt new chapter 173-360A WAC, Underground storage tank (UST) regulations. The new chapter would replace the repealed chapter. Ecology proposes changes to the regulations.

Hearing Location(s): On Wednesday, February 28, 2018, at 1:00 p.m., webinar and in person at the Hampton Inn and Suites, 4301 Martin Way East, Olympia, WA 98516. Presentation, question and answer session, followed by the formal public hearing.

We are also holding this hearing via webinar. This is an online meeting forum that you can attend from any computer using internet access.

To join the webinar, click on the following link for more information and instructions <https://watech.webex.com/watech/j.php?MTID=m340722cfb126efce19fdb77e001afc4>.

For audio only, call United States toll number +1-240-454-0887 and enter access code 803 394 380. Or to receive a free call back, provide your phone number when you join the event.

On Friday, March 2, 2018, at 1:00 p.m., this will be a video conference. Participants can attend at the Department of Ecology, Eastern Regional Office, 4601 North Monroe Street, Spokane, WA 99205; at the Department of Ecology, Northwest Regional Office, 3190 160th Avenue S.E., Bellevue, WA 98008; and at the Department of Ecology, Central Regional Office, 1250 West Alder Street, Union Gap, WA 98903.

Presentation, question and answer session, followed by the formal public hearing.

We will accept comments at all locations.

Date of Intended Adoption: On or after June 30, 2018.

Submit Written Comments to: Kristopher Grinnell, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, Submit comments online at <http://cs.ecology.commentinput.com/?id=usNx2>] by March 16, 2018. Please submit comments online or by mail.

Assistance for Persons with Disabilities: Contact Hanna Waterstrat, phone 360-407-7668 (voice), TTY 877-833-6341, email hanna.waterstrat@ecy.wa.gov, 711 relay service, by February 21, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Ecology proposes to repeal existing chapter 173-360 WAC and adopt new chapter 173-360A WAC, Underground storage tank (UST) regulations. The new chapter would replace the repealed chapter. As part the rule making, ecology proposes to:

1. Incorporate federal rule changes needed to maintain state program approval, as specified in 40 C.F.R. Parts 280 and 281 and adopted in June 2015.
2. Incorporate changes to the state's UST program specified in the authorizing state statute, chapter 90.76 RCW.
3. Make other selective changes to the requirements governing the state's UST program (such as updating UST service provider requirements).
4. Streamline rule requirements, improve rule clarity, and improve consistency within the rule and with other state and federal laws and rules.

WSR 18-03-178

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 16-02—Filed January 24, 2018, 8:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-07-157.

Title of Rule and Other Identifying Information: The department of ecology (ecology) proposes to repeal existing

Ecology is conducting the rule making to:

1. Maintain federal approval of the state's UST program, as required by the authorizing state statute, chapter 90.76 RCW.

2. Implement changes to state's UST program specified in the authorizing state statute, chapter 90.76 RCW.

3. Reduce the number and severity of releases of petroleum and other hazardous substances from UST systems, which pose a serious threat to human health and the environment, including drinking water.

4. Make the rule easier to use and understand by the regulated community.

The rule making is intended to accomplish the following:

1. Federal approval of the state's UST program.

2. Compliance with the authorizing state statute, chapter 90.76 RCW.

3. Reduction in the number and severity of releases of petroleum and other hazardous substances from UST systems, and the threat posed by those releases to human health and the environment, including drinking water.

4. Rule that is easier to use and understand by the regulated community.

For more information about the rule making, see <https://www.ecology.wa.gov/Regulations-Permits/Laws-rules/Rulemaking/WAC-173-360-Mar16>.

Reasons Supporting Proposal: See answer to "Purpose of the proposal and its anticipated effects, including any changes in existing rules" above.

Statutory Authority for Adoption: Chapter 90.76 RCW, Underground storage tanks.

Statute Being Implemented: Chapter 90.76 RCW, Underground storage tanks.

Rule is necessary because of a federal law 40 C.F.R. Parts 280 and 281.

Name of Proponent: Department of ecology, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Feldcamp, Ecology Headquarters, Lacey, Washington, 360-407-7531; **Implementation and Enforcement:** Kristopher Grinnell, Ecology Headquarters, Lacey, Washington, 360-407-7382.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kristopher Grinnell, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-7382, email USTrule@ecy.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Portions of the proposal incorporate federal rule changes, as specified in 40 C.F.R. Parts 280 and 281 and adopted in June 2015. Those changes are necessary to maintain federal approval of the

state's UST program, as required by the authorizing state statute, chapter 90.76 RCW.

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement (SBEIS)

Proposed amendments to chapter 173-360A WAC, Underground storage tank regulations.

This SBEIS presents the:

- Compliance requirements of the proposed rule.
- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigating action taken by ecology, if required.
- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected net impact on jobs statewide.

A small business is defined by the Regulatory Fairness Act (chapter 19.85 RCW) as having fifty or fewer employees. Estimated costs are determined as compared to the existing regulatory environment, the regulations in the absence of the rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for nonprofit or government agencies.

The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

This information is excerpted from ecology's complete set of regulatory analyses of the proposed rule. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the regulatory analyses (Ecology publication no. 18-09-056, January 2018)

COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES: The baseline for our analyses generally consists of existing rules and laws, and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without

out the proposed rule amendments. Without the proposed rule amendments, the existing rule would remain in place and the federal rule would be applied to the state by the Environmental Protection Agency (EPA) to serve as a minimum set of requirements. We are therefore analyzing the impacts of the proposed rule amendments as the difference between the proposed rule amendments and the existing state and federal rules.

For this proposed rule making, the baseline includes:

- The existing rule, chapter 173-360 WAC, Underground storage tank regulations.
- The authorizing statute, chapter 90.76 RCW, Underground storage tanks.
- Related laws and rules, including but not limited to 40 C.F.R. Parts 280 and 281.

The proposed rule amendments that differ from the baseline and are not *specifically* dictated in the authorizing statute or elsewhere in law or rule include:

- Part 1 - Scope and definitions.
- Part 2 - Administration and enforcement.
- Part 3 - Installation and performance standards.
- Part 4 - Operation and maintenance.
- Part 5 - Operator training.
- Part 6 - Release detection.
- Part 7 - Release reporting, confirmation, and cleanup.
- Part 8 - Closure.
- Part 9 - Service providers.
- Part 10 - Financial responsibility.
- Creating new chapter 173-360A WAC.

2.3.1 Part 1 - Scope and definitions:

Baseline: The existing rule allows exemptions and exclusions for various types of UST systems to not be required to be licensed. It also sets requirements for maintaining these exceptions.

Proposed: Exempt UST systems, changes the heating oil exemption by removing the requirement for tanks over one thousand one hundred gallons to report releases.

Partially exempt UST systems, adds requirement that installation records must be maintained until the partially excluded UST system is permanently closed or undergoes a change-in-service. Eliminated requirement that a site assessment must occur upon closure.

Expected impact: Systems storing more than one thousand one hundred gallons of heating oil were previously subject to the release reporting requirements in the rule. However, this duplicates requirements under chapter 173-340 WAC, Model Toxics Control Act. The likely impact is a benefit to owners of such systems in the form of eliminating duplicate reporting.

For partially exempt systems, the impact is the cost of maintaining installation records and the benefit of foregoing a site assessment upon closure and keeping records.

2.3.2 Part 2 - Administration and enforcement:

Baseline: Under the baseline rule, administrative requirements for system owners are detailed.

Proposed:

- Eliminates requirement that owners must pay tank fees after a UST system has undergone permanent closure or a change-in-service until any releases have been cleaned up.
- Changes reporting requirements for sellers:
 - Eliminates requirement that persons who sell property containing UST systems must notify buyer of licensing requirements. Persons who sell tanks, whether new or installed, must still notify buyer.
 - Adds requirement that persons who lease tanks must notify lessee.
- Recordkeeping:
 - Eliminates specific requirement about where records must be maintained. Clarified that records only need to be made available for inspection upon request.
 - Eliminates requirement that decommissioning records must be maintained since such records must already be submitted to ecology upon permanent closure or change-in-service.
 - Added requirement that records must be transferred upon changes in ownership or operation.

Expected impact: We expect these proposed changes to benefit system owners in the form of decreased requirements and improve the rate at which records are transferred at the point of sale. They will also impose costs in the form of notification and record transfer and help align recordkeeping requirements with current practices.

2.3.3 Part 3 - Installation and performance standards:

Baseline: The current rule lists the installation requirements and performance standards for UST systems.

Proposed: Installation of UST systems and components:

- Adds requirement that owners and operators must confirm planned start date at least three business days before starting installation.
- Adds prohibition that, after effective date of the rule, used tanks may not be installed as part of a UST system.
- Adds requirement that installation records must be maintained until the UST system is permanently closed or undergoes a change-in-service, consistent with existing requirement for repairs to UST systems.

Performance standards for new UST systems and components:

- Unlike under the federal rule, specifies that corrosion assessments if used to avoid installing cathodic protection, must also be performed every five years after installation and that reports documenting the determination and its basis must be submitted to the department.
- For secondary containment, eliminates secondary barriers as an option for hazardous substance UST systems installed on or before October 1, 2012, since all such systems are double-walled and secondary barriers have yet [to] be used in Washington.
- For under-dispenser containment (UDC), adds requirement that they must be factory-built or machine-tooled, unless otherwise approved by the department. The

requirement only applies to UDC installed or replaced after effective date of rule.

Upgrade to recordkeeping requirements for existing and previously deferred UST systems:

- Adds requirement that upgrade records must be maintained until the UST system is permanently closed or undergoes a change-in-service.
- Adds requirement that upgrade records must be maintained until the UST system is permanently closed or undergoes a change-in-service. The federal rule does not require records of upgrades to be maintained, except for repairs.

Performance standards for partially exempt UST systems:

- Unlike under the federal rule, corrosion assessments used to avoid installing cathodic protection must also be performed every five years after installation. Reports documenting the determination and its basis is [are] submitted to the department.

Compatibility requirements for UST systems:

- Specifies that compatibility demonstrations are also required for UST systems storing hazardous substances. The federal rule does not require this.
- Specifies that records of compatibility demonstrations must be maintained "until the system is permanently closed or undergoes a change-in-service."

Expected impact: The proposed rule amendments would potentially result in increased costs for system owners. These costs arise from record[s] retention, demonstration of compatibility, corrosion assessment and reporting, and the need to use new, as opposed to used tanks.

Benefits will also accrue due to improved communication and aligning requirements. Also, ensuring that ecology is present at installation will discourage poor practices that may have been used in installation previously.

2.3.4 Part 4 - Operation and maintenance:

Baseline: The existing rule addresses the operation and maintenance of UST systems.

Proposed: Transfer of regulated substances:

- Adds requirement that product deliverers must comply with spill and overfill control requirements.
- Adds requirement that product deliverers and waste oil collectors must report any spill or overfill of regulated substances immediately to the owner or operator.

Operation and maintenance walkthrough inspections:

- Specifies that records of walkthrough inspections must be maintained for three years. The federal rule specifies one year.
- Specifies that walkthrough inspections must begin upon installation (for systems installed after effective date) or one year after effective date (for systems installed on or before effective date). The federal rule specifies three years after effective date for all systems.

Operation and maintenance of corrosion protection:

- Adds requirement that corrosion expert must be notified within twenty-four hours if cathodic protection system is not operating properly.
- Changes record retention for cathodic protection tests from last two tests, which is the same as the federal rule, to six years (two compliance inspections). Tests are performed every three years.
- Changes record retention for rectifier inspections from last three inspections, which is the same as the federal rule, to three years (one compliance inspection).

Operation and maintenance of containment sums used for interstitial monitoring and spill prevention equipment:

- Specifies that tightness tests must be performed by [a] certified service provider. The federal rule does not specify who may perform tests.
- Specifies that tightness tests must be reported. The federal rule does not require reporting.
- Specifies that records of periodic monitoring must be retained for three years (one inspection cycle). The federal rule requires such records to be maintained for as long as the equipment is periodically monitored.
- Specifies that records of tightness tests must be retained for six years (two inspection cycles). The federal rule requires such records to be maintained for three years.
- Specifies that compliance dates for previously installed UST systems depends on whether the identification number on the facility compliance tag is even (two years after effective date) or odd (three years after effective date). The federal rule requires compliance within three years. This is intended to avoid having the deadline for testing and inspections by service providers of all previously installed UST systems (more than nine thousand) be at the same time, which has been an implementation problem in other states.

Operation and maintenance of overfill prevention equipment:

- Specifies that inspections must be performed by a certified service provider. The federal rule does not specify who may perform the inspections.
- Specifies that inspections must be reported. The federal rule does not require reporting.
- Specifies that flow restrictors in vent lines needing repairs must be replaced with another type of overfill prevention equipment.
- Specifies that records of inspections must be retained for six years (two inspection cycles). The federal rule requires such records to be maintained for three years.
- Specifies that compliance dates for previously installed UST systems depends on whether the identification number on the facility compliance tag is even (two years after effective date) or odd (three years after effective date). The federal rule requires compliance within three years. This is intended to avoid having the deadline for testing and inspections by service providers of all previously installed UST systems (more than nine thousand)

be at the same time, which has been an implementation problem in other states.

Operation and maintenance of release detection equipment:

- Specifies that tests must be performed by a certified service provider. The federal rule does not specify who may perform the tests.
- Specifies that tests must be reported. The federal rule does not require reporting.
- Specifies that schedules of required calibration and maintenance must be maintained for as long as the equipment is used. The federal rule requires such records to be maintained for five years.
- Specifies that testing of release detection equipment must begin upon installation (for systems installed after effective date) or either two or three years after effective date (for systems installed on or before effective date) based on whether the facility compliance tag number is even or odd. The federal rule requires compliance within three years for all UST systems.

Repairs of UST system components:

- Specifies that tests must be performed by a certified service provider. The federal rule does not specify who may perform such tests.
- Specifies that tests must be reported. The federal rule does not require reporting.
- Specifies that records of tests must be retained for three years (one inspection cycle). The federal rule does not clearly specify record retention for such tests.
- Adds requirement that electronic or mechanical repaired release detection equipment must be tested within thirty days of the repair. The federal rule does not require such testing upon repair.

Expected impact: The proposed rule could result in costs for product deliverers, however, it is expected that they are already complying with spill and overfill control requirements. Expected additional costs for owners are associated with walkthrough inspections, record retention duration, and notification of corrosion expert requirements. Also, costs may accrue for utilization of certified service providers for tightness tests, overflow prevention equipment inspections, release detection equipment inspections, and repairs to system components; as well as reporting of these inspections and retention of these records.

Potential benefits could result from greater ability for ecology to identify trends in reporting data and decreasing the probability of a release.

2.3.5 Part 5 - Operator training:

Baseline: The existing rule includes the requirements for operator training.

Proposed:

- Updates grandfather clause to clarify that retraining is not required merely because the training requirements are changed.
- Adds requirements that existing Class A and/or B training programs and examinations must be revised to reflect

changes in training requirements and approved by the department. Updates must be submitted within six months of the effective date of the rule.

- Eliminates exemption from retraining requirements for Class A and B operators retrained annually.
- Adds operation and maintenance of containment sumps to the list of what must be included in operation and maintenance plans, consistent with new requirements.

Expected impact: The proposed changes result in likely costs in the form of updating training programs and benefits due to avoided retraining through the grandfather clause.

2.3.6 Part 6 - Release detection:

Baseline: The existing rule includes requirements pertaining to release detection.

Proposed: General requirements—Recordkeeping:

- Changes retention period for certification records from five years to as long as the equipment or method is used. The retention period in the federal rule is five years.
- Changes retention period for tank and line tightness test results from the last test to the last two tests, including when performed on previously deferred UST systems. The federal rule requires the last test result.
- Specifies that retention period for results from vapor monitoring using a tracer compound every two years is the last two test results. The federal rule requires the last test result.
- Changes retention period for results from all other release detection methods, including when performed on previously deferred UST systems, from five years to three years. The federal rule requires the last test result.

Weekly manual tank gauging:

- Adds requirements that equipment must be able to measure water levels, and that water levels must be measured at least once each month.

Expected impact: Proposed changes to the rule will likely result in increased costs to the system owners in the form of increased record retention and updating tank gauging equipment to measure water levels. Potential benefits could result from better identification of potential problems.

2.3.7 Part 7 - Release reporting, confirmation, and cleanup:

Baseline: The existing rule discusses requirements pertaining to release reporting, confirmation, and cleanup.

Proposed: Site assessment requirements:

- Incorporates into the rule minimum requirements for site assessments from the guidance document referenced in the current rule. Except as follows, the requirements are the same:
 - For assessing single tanks in place, increased the number of samples from three to five for tanks between nine thousand and twenty thousand gallons. For assessing multiple tanks in place, clarified the number of additional samples required for each additional tank.
 - For assessing connected dispensers (either removed or in place), clarifies that one sample must be col-

- lected for each connected dispenser rather than each dispenser island.
- For assessing single tanks removed from the ground, increases the number of samples from three to five for tanks between nine thousand and twenty thousand gallons. For assessing multiple tanks removed from the ground, increases the number of additional samples for each additional tank from one to two.
- For assessing excavated soils, reduces the number of required samples when there is less than fifty-one cubic yards from three to two (for twenty-six through fifty) and one (for zero through twenty-five).
- For assessing UST system components in place, specified that samples must be collected as close as practicable to, but no more than ten feet from the applicable component. The current rule does not specify an outside limit.
- Changes deadline for service providers to report confirmed releases to the department from seventy-two hours to twenty-four hours to be consistent with reporting requirements for owners and operators.

Expected impact: The proposed rule would create potential costs to system operators. This is due to having to conduct additional sampling when conducting a site assessment under some circumstances.

2.3.8 Part 8 - Closure:

Baseline: The existing rule regulates closure of UST systems.

Proposed: Temporary closure of UST systems:

- Adds requirement that UST systems temporarily closed for more than ninety days must either be emptied or the amount of regulated substance remaining in the system must be measured.
- Eliminates "0.3 percent by weight of the total capacity" as a criteria for determining whether a UST system is empty.
- Eliminates requirement that a UST system must be permanently closed after twelve months if the tanks and piping do not meet applicable performance standards or upgrade requirements. The provision is no longer necessary.
- Adds requirement that a preliminary evaluation of the structural integrity of a tank must be completed before ecology will authorize deposit of regulated substances needed for a tightness test of an empty temporarily closed UST system.
- For UST systems temporarily closed more than ninety days, adds requirement that any operation and maintenance tests or inspections suspended during temporary closure must be performed before returning a UST system to operation.

Permanent closure and change-in-service of UST systems:

- Adds requirement that ecology must be notified of any change in the planned start date for permanent closure or

change-in-service at least three business days before starting.

- Eliminates requirement that permanent closure or change-in-service must be completed within ninety days of ecology's receipt of the notice of intent.
- Eliminates requirement that decommissioning records must be maintained since such records must be submitted to ecology.
- Eliminates exception to site assessment requirement in cases where vapor or groundwater monitoring is used as a release detection method and monitoring does not indicate a release.
- Specifies that ecology must be notified of the permanent closure of partially excluded UST systems. Such systems no longer need to comply with any other closure requirements.

Expected impact: The proposed changes to the rule will likely result in costs to the system owner in the form of either measuring or removing any substances in the system for temporary closure.

Other potential costs include a preliminary evaluation of structural integrity, and notification. Potential benefits accrue from less record retention and the elimination of redundant requirements.

2.3.9 Part 9 - Service providers:

Baseline: The existing rule sets requirements for certifications for providers of specific services.

Proposed: Certifications required to perform services:

- Specifies that assessments of corrosion potential, which are now allowed under the proposed rule, must be performed by a corrosion expert.
- Specifies that the following new required services must be performed by a service provider certified in tightness testing or installation/repair:
 - Testing of containment sumps used for interstitial monitoring.
 - Testing of spill prevention equipment.
 - Testing of release detection equipment.
 - Inspections of overfill prevention equipment.
 - Testing of secondary containment areas of tanks or piping used for interstitial monitoring.

Certification of service providers:

- Adds certification by the Steel Tank Institute as a method of being certified as a cathodic protection tester.

Responsibilities of service providers:

- Adds requirement that tanks and piping runs undergoing permanent closure may not be removed from the ground unless both the service provider decommissioning the tanks or piping runs and the site assessor performing the site assessment are present.
- Changes deadline for service providers to report confirmed releases to ecology from within seventy-two hours to within twenty-four hours to make consistent with reporting requirements for owners and operators.

Expected impact: The proposed rule would likely result in additional costs to system owners as service providers

would need certification and would likely charge more because of it.

Potential benefits include providing consistency in the methods used to conduct testing, ensuring proper sampling, and alignment of release reporting to eliminate confusion. The proposed rule creates additional benefits in the form of decreasing the chance of a release to occur due to the utilization of service providers with specific certifications, service providers being present when decommissioning and aligning reporting requirements.

2.3.10 Part 10 - Financial responsibility:

Baseline: The existing rule sets regulations for financial responsibility for system owners.

Proposed: Period of financial responsibility:

- Unlike the federal rule, specifies that financial responsibility does not need to be maintained during temporary closure if the UST system is emptied and a site assessment is completed after the system is emptied. A site assessment is not needed if a release had previously been confirmed and further remedial action is needed to cleanup the confirmed release.
- Unlike the federal rule, specifies that financial responsibility does not need to be maintained after permanent closure or change-in-service until any releases from the UST system are cleaned up.

State fund financial assurance option:

- Eliminates requirements for state fund option since there is no such option in Washington state.

Recordkeeping by owners and operators:

- Eliminates requirement that specifies where financial responsibility records must be maintained. Records must still be made available upon request by the department.

Reporting by owners and operators:

- For insurance, to demonstrate financial responsibility, specifies that need to submit both certification of financial responsibility and certificate of insurance or endorsement.

Certificates of insurance and endorsement boilerplates:

- Adds "policy retroactive date" to information that must be included on certificates of insurance and endorsements to insurance policies.
- Adds contact information for business licensing service to help inform both the insurer and insured who holds the endorsement.

Expected impact: The proposed rule would likely create benefits for system owners by allowing periods where financial responsibility need not be maintained. Costs may accrue due to submission of certification of financial responsibility and certificate of insurance or endorsement.

2.3.11 Creating a new chapter, chapter 173-360A WAC:

Baseline: Chapter 173-360A WAC does not exist. Most of the information that is proposed for inclusion in chapter 173-360A WAC is contained in chapter 173-360 WAC.

Proposed: Creation of a new chapter, chapter 173-360A WAC. Repeal of chapter 173-360 WAC. Incorporate and update existing requirements into the new chapter.

Expected impact: The proposed changes will simplify and improve clarity.

COSTS OF COMPLIANCE: EQUIPMENT: Additional costs may accrue due to updating tank gauging equipment to measure water levels. All electronic systems already have this capability. If the owner does not have an electronic system, this requirement could be met using a tank stick, which costs roughly \$20 and a tube of water finding paste, which costs roughly \$10. Ecology does not have information on how many owner/operators this will impact.

Costs for requiring new tanks being used would be the difference between the cost of a new tank and the cost of a used one. This would vary considerably based on type, size and condition of used tank. If an owner/operator reused a tank they already possessed, the cost attributable to the rule would be the difference between the cost of a new tank (roughly \$25,000) and the cost of recertifying the old tank (roughly \$7,500¹). If they purchase the used tank, this would decrease the cost attributable to the rule by the amount spent on the used tank.

¹ Phone conversation with correspondence with David Luke of Frontier Sales (Containment Solutions) on January 10, 2018.

COSTS OF COMPLIANCE: SUPPLIES: Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of supplies.

COSTS OF COMPLIANCE: LABOR: Compliance with the proposed rule, compared to the baseline, result in likely costs for companies updating training programs to align with new rule is estimated to cost \$120 to \$480 based [on] one to four hours of a training development manager's time, a \$50.88 hourly wage multiplied by a factor of 2.257 for overhead, and an inflation adjustment of 2.7 percent.

COSTS OF COMPLIANCE: PROFESSIONAL SERVICES: Metal tanks and piping do not need to be cathodically protected if a corrosion expert assesses the environment around the UST system and determines that it is not corrosive enough to cause the system to have a release due to corrosion during its operational life. Initial assessments are required under federal rule. The proposed rule adds additional assessments every five years.

While the initial corrosion assessment is estimated by the industry to cost \$8,000, the follow-up assessments are estimated to cost \$789.20 every five years, based on eight hours of an environmental engineer's time, a \$42.56 hourly wage² multiplied by a factor of 2.257 for overhead³, and an inflation adjustment of 2.7 percent⁴. This is a rarely used provision, currently only five sites, representing ten tanks, have used this provision and moving forward we do not anticipate that number growing.

For a total cost of \$3,946 every five years, including reporting, which converts to a twenty year present value⁵ of approximately \$13,135 over the five sites.

Costs may accrue for utilization of certified service provider for tightness tests, overflow prevention equipment inspections, release detection equipment inspections, and repairs to system components; as well as reporting of these

inspections and retention of these records. Costs will depend on the service provider and how many tanks are at the site. Costs are estimated to range from \$400 - \$900.

Additional testing resulting from the proposed rule includes⁶:

² United States Bureau of Labor Statistics 2016 https://www.bls.gov/oes/current/oes_nat.htm#17-0000 for wage type 17-2081.

³ WA Department of Ecology (2016). Ecology 2017 Standard Cost assumptions. December 2, 2016.

⁴ US Bureau of Labor Statistics (2017). Consumer Price Index 2016-2017.

⁵ United States Treasury Department (2017). Historic rates of returns on I-bonds, 1998 - 2017.

⁶ Note: Federal rule requires these tests begin three years after federal effective date. The proposed rule requires them to begin sooner, therefore, the costs associated with any required testing prior to the three-year federal start date is attributable to the proposed rule.

(1) Spill bucket testing once every three years, this is for all spill buckets.

a. This is conducted by a service provider and there is a spill bucket for each of the nine thousand regulated USTs in Washington.

b. Estimated to cost roughly \$100 per test.

c. Half of these will occur in two years, one year earlier than the federal rule requires.

d. Aggregate cost attributable to the proposed rule is the cost of one test per tank, or \$435,000.

(2) Overfill devices once every three years.

a. This is conducted by a service provider and there is an overfill device for each of the nine thousand regulated USTs in Washington.

b. Estimated to cost roughly \$100 per test.

c. Half of these will occur in two years, one year earlier than the federal rule requires.

d. Aggregate cost attributable to the proposed rule is the cost of one test per tank, or \$435,000.

(3) Testing of sumps used for interstitial monitoring once every three years.

a. This is conducted by a service provider and there are roughly two thousand sumps used for interstitial monitoring at UST sites in Washington.

b. Estimated to cost roughly \$200 per test.

c. Half of these will occur in two years, one year earlier than the federal rule requires.

d. Aggregate cost attributable to the proposed rule is the cost of one test per tank, or \$193,000.

This results in an estimated twenty year present value⁷ of approximately of \$1.06 million.

⁷ United States Treasury Department (2017). Historic rates of returns on I-bonds, 1998 - 2017.

Other potential costs include a preliminary evaluation of structural integrity (such as a pressure decay test) when a UST system is temporarily closed for more than ninety days then returned to operation. These evaluations would be performed by service providers and are estimated to cost \$700. These are estimated to occur roughly thirty times per year, which converts to a twenty year present value⁸ of approximately \$360,000.

⁸ United States Treasury Department (2017). Historic rates of returns on I-bonds, 1998 - 2017.

COSTS OF COMPLIANCE: ADMINISTRATIVE COSTS: Where applicable, ecology estimates administrative costs "overhead" as part of the cost of labor and professional services, above.

COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES: When determining the proportionality of impacts, ecology typically compares small businesses (those with fifty or fewer employees) to the largest ten percent of businesses in the industry. In the current analyses, small businesses represent more than ninety percent of all businesses in the affected industries (as identified by NAICS code, see below). For this reason, ecology is comparing the impacts on small businesses with large businesses (those with fifty or more employees).

Small businesses average 7.8 employees. Large businesses average one hundred twenty-seven employees. Because large businesses have 16.3 times as many employees as small businesses in these industries, in order for the imposed costs to be proportional, they would need to be 16.3 times as large for large businesses than for small businesses. While it makes intuitive sense that larger businesses would have more tanks (and therefore face higher costs), this is not universally accurate. Further, it is highly unlikely that these costs would be sixteen times higher.

Therefore, we conclude that the proposed rule amendments are likely to have disproportionate impacts on small businesses, and therefore ecology must include elements in the proposed rule amendments to mitigate this disproportion, as far as is legal and feasible.

CONSIDERATION OF LOST SALES OR REVENUE: Businesses that would incur costs could experience reduced sales or revenues if the incurred costs would significantly affect the prices of the goods they sell. The degree to which this could happen is strongly related to each business's production and pricing model (whether additional lump-sum costs significantly affect marginal costs), as well as the specific attributes of the markets in which they sell goods, including the degree of influence of each firm on market prices, as well as the relative responsiveness of market demand to price changes.

MITIGATION OF DISPROPORTIONATE IMPACT: The RFA (RCW 19.85.030(2)) states that:

Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

(a) Reducing, modifying, or eliminating substantive regulatory requirements;

(b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;

(c) Reducing the frequency of inspections;

(d) Delaying compliance timetables;

(e) Reducing or modifying fine schedules for noncompliance; or

(f) Any other mitigation techniques including those suggested by small businesses or small business advocates.

Ecology considered all of the above options, and included the following legal and feasible elements in the proposed rule that reduce costs.

- Adding exclusions, exceptions, and clarifications to prevent overlapping regulatory requirements.
- Eliminating some requirements for partially exempt UST systems.
- Lessening requirements for when site assessments must occur.

SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION: Ecology involved small businesses and local government (or representative organizations) in its development of the proposed rule amendments, as part of its outreach and rule-development process. This included:

- Email listserv "Ecology-UST-RULE LIST," with three hundred fifteen current members, including industry groups, cities, and counties.
- Stakeholder meetings - attendees and invitees:
 - SME Solutions
 - Albertsons
 - Automotive United Trades Organization (AUTO)
 - BP
 - Century Link
 - Costco
 - Fred Meyers
 - Jackson's Food
 - Korean American Grocers Association of Washington (KAGRO)
 - Northwest Tank
 - NW Grocers Association
 - PSE
 - QFC
 - Safeway
 - Shell
 - Tesoro
 - UST Service Providers
 - Washington Oil Marketers Association (WOMA)
 - Western States Petroleum Association (WSPA)

NAICS CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE: The proposed rule is likely to impact the following NAICS codes.

Table 3: NAICS Codes that Include Businesses Possibly Needing to Comply with the Proposed Rule Amendments

2111	3241	4812	4854	4879	5321	7139
2121	3361	4821	4855	4881	5621	8111
2122	4231	4831	4859	4882	5622	9281
2123	4247	4841	4861	4883	6221	
2131	4411	4842	4862	4884	6222	
2211	4412	4851	4869	4889	6223	
2212	4471	4852	4871	4911	6231	
2213	4811	4853	4872	4921	7112	

IMPACT ON JOBS: Ecology used the Washington state office of financial management's 2007 Washington Input-Output Model⁹ to estimate the impact of the proposed rule on jobs in the state. The model accounts for interindustry impacts and spending multipliers of earned income and changes in output.

⁹ See the Washington State Office of Financial Management's site for more information on the Input-Output model. <http://www.ofm.wa.gov/economy/io/2007/default.asp>

The proposed rule amendments will result in transfers of money within and between industries. Job impact calculations were based on cost increases and reductions over the twenty year period of study that could be quantified for the proposed rule amendments.

It is estimated that the state would experience a net increase in employment of two jobs as a result of the proposed rule over the twenty year period of study.

These prospective changes in overall employment in the state are the sum of multiple small increases and decreases across all industries in the state.

A copy of the statement may be obtained by contacting Kristopher Grinnell, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-7382, email USTRule@ecy.wa.gov.

January 24, 2018

Polly Zehm
Deputy Director

Chapter 173-360A WAC

UNDERGROUND STORAGE TANK REGULATIONS

PART 1

PURPOSE AND SCOPE

NEW SECTION

WAC 173-360A-0100 Purpose of chapter. This chapter is promulgated under the authority of chapter 90.76 RCW and establishes a statewide underground storage tank program that is intended, at a minimum, to meet the legislature's intent to:

(1) Address the serious threat to human health and the environment posed by leaking underground storage tanks containing petroleum and other regulated substances;

(2) Meet the requirements for delegation of the federal underground storage tank program of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.);

(3) Be consistent with and no less stringent than the requirements in the federal regulations and the Underground Storage Tank Compliance Act of 2005 (42 U.S.C. Sec. 15801 et seq., Energy Policy Act of 2005, P.L. 109-58, Title XV, Subtitle B); and

(4) Allow for the establishment of local requirements more stringent than the statewide requirements to protect environmentally sensitive areas.

NEW SECTION

WAC 173-360A-0110 Applicability of chapter. The requirements of this chapter apply to all owners and operators of an UST system, except as otherwise provided in this section.

(1) **Exempt UST systems.** The following UST systems are exempt from all of the requirements of this chapter:

(a) Any UST system holding hazardous wastes subject to Subtitle C of the Solid Waste Disposal Act (42 U.S.C. Sec. 6921 through 6939e), or a mixture of such hazardous waste and other regulated substances;

(b) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 307(b) or 402 of the Clean Water Act (33 U.S.C. Sec. 1317(b) or 1342);

(c) Any storage tank situated in an underground area (such as a basement, cellar, vault, mineworking, drift, shaft, or tunnel) upon or above the surface of the floor so that routine physical inspection of the exterior of the tank is possible;

(d) Any UST system used solely for heating structures on the property where the system is located;

(e) Any farm or residential UST system with a capacity of one thousand one hundred gallons or less used for storing motor fuel for noncommercial purposes;

(f) Any UST system with a capacity of one hundred ten gallons or less;

(g) Any UST system that contains a de minimis concentration of regulated substances;

(h) Any emergency spill or overflow containment UST system that is expeditiously emptied after use;

(i) Any equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(j) Any flow-through process tank;

(k) Any septic tank;

(l) Any stormwater or wastewater collection system;

(m) Any surface impoundment, pit, pond, or lagoon;

(n) Any liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; and

(o) Any pipeline facility (including gathering lines):

(i) Which is regulated under 49 U.S.C. chapter 601; or

(ii) Which is an intrastate pipeline facility regulated under state laws as provided in 49 U.S.C. chapter 601, and which is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline.

(2) **Partially exempt UST systems.**

(a) The following UST systems are partially exempt and subject only to the requirements of this chapter specified in (b) of this subsection:

(i) Any wastewater treatment tank system not regulated under Section 307(b) or 402 of the Clean Water Act (33 U.S.C. Sec. 1317(b) or 1342);

(ii) Any UST system containing radioactive material that is regulated under the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2011 et seq.);

(iii) Any UST system that is part of an emergency power generator system at a nuclear power generation facility licensed by the Nuclear Regulatory Commission and subject

to Nuclear Regulatory Commission requirements regarding design and quality criteria, including 10 C.F.R. Part 501; and

(iv) Any aboveground storage tanks associated with previously deferred UST systems, as defined in WAC 173-360A-0150(53).

(b) The partially exempt UST systems identified in (a) of this subsection are subject only to the following requirements of this chapter:

(i) WAC 173-360A-0200 (Licensing of UST systems);

(ii) WAC 173-360A-0210 (Fees for UST systems);

(iii) WAC 173-360A-0220 (Facility compliance tags);

(iv) WAC 173-360A-0240(3) (Availability of records);

(v) WAC 173-360A-0250 (Compliance monitoring, investigation, and access);

(vi) WAC 173-360A-0270 (Enforcement);

(vii) WAC 173-360A-0280 (Delivery prohibition);

(viii) WAC 173-360A-0290 (Civil penalties);

(ix) WAC 173-360A-0300 (Installation of UST systems and components);

(x) WAC 173-360A-0340 (Performance standards for partially exempt UST systems), except for:

(A) Aboveground storage tanks associated with previously deferred UST systems; and

(B) UST systems for which installation commenced on or before December 22, 1988;

(xi) WAC 173-360A-0400(1) and 173-360A-0405(1) (Authority to deliver or deposit regulated substances);

(xii) WAC 173-360A-0750 (Reporting and cleanup of confirmed releases);

(xiii) WAC 173-360A-0810(5) (Partially exempt UST systems - Notice of permanent closure);

(xiv) WAC 173-360A-0820(5) (Partially exempt UST systems - Notice of change-in-service); and

(xv) Part 10 of this chapter (Financial responsibility).

(3) **Previously deferred UST system compliance dates.**

(a) Owners and operators of previously deferred UST systems, as defined in WAC 173-360A-0150(53), installed on or before (effective date of rule) shall comply with the requirements of this chapter in accordance with the schedule in Table 0110-1.

Table 0110-1: Previously Deferred UST System Compliance Dates

Requirements	Compliance Date
Part 1 (purpose and scope)	(effective date of rule)
Part 2 (administration and enforcement)	(effective date of rule)
Part 3 (installation and performance standards)	(three years after effective date of rule)
Part 4 (operation and maintenance)	(three years after effective date of rule)
Part 5 (operator training)	(three years after effective date of rule)
Part 6 (release detection)	(three years after effective date of rule)

Requirements	Compliance Date
Part 7 (release reporting, confirmation, and cleanup)	(effective date of rule)
Part 8 (closure)	(effective date of rule)
Part 9 (service providers)	(effective date of rule)
Part 10 (financial responsibility)	(effective date of rule)

(b) Owners and operators of previously deferred UST systems installed after (effective date of rule) shall comply with the requirements of this chapter upon installation.

NEW SECTION

WAC 173-360A-0120 Preemption of local programs.

This chapter supersedes and preempts any state or local underground storage tank law, ordinance, or resolution governing any aspect of regulation covered by this chapter except:

(1) Provisions of the International Fire Code adopted under chapter 19.27 RCW that are not more stringent than and do not directly conflict with the provisions of this chapter;

(2) Local laws, ordinances, and resolutions pertaining to local authority to take immediate action in response to a release of a regulated substance;

(3) Local laws, ordinances, and resolutions pertaining to permits and fees for the use of underground storage tanks in street right of ways that were in effect on July 1, 1990;

(4) City, town, or county underground storage tank ordinances that are more stringent than the federal regulations and the uniform fire code adopted under chapter 19.27 RCW and were in effect on November 1, 1988. Under chapter 90.76 RCW, local jurisdictions were required to notify the department of the existence of such ordinances by July 1, 1989. The department received notification from the city of Redmond, and city of Renton, the city of Spokane, Spokane County, and Tacoma-Pierce County; and

(5) Local laws, ordinances, and resolutions pertaining to the protection of environmentally sensitive areas that are more stringent than the requirements of this chapter and have been approved by the department under WAC 173-360A-0130.

NEW SECTION

WAC 173-360A-0130 Approval of more stringent local requirements.

A city, town, or county may adopt ordinances or resolutions establishing requirements for UST systems within an environmentally sensitive area that are more stringent than the statewide requirements of this chapter, if approved by the department under this section. Designation of an environmentally sensitive area under this section is solely for the purposes of implementing chapter 90.76 RCW.

(1) **Application.** Any city, town, or county may apply to the department to have an area within its jurisdictional boundaries designated an environmentally sensitive area. A city, town, or county may also submit a joint application with any other city, town, or county for joint administration under

chapter 39.34 RCW of a single environmentally sensitive area located in both jurisdictions.

(a) **Required information.** The application for designation of an environmentally sensitive area and approval of more stringent UST system requirements shall consist of a concise, factual report that provides sufficient information for the department to make a determination. The application must include the following:

(i) A description and map of the area to be designated and where within the area the more stringent UST system requirements would apply;

(ii) A description of the physical characteristics of the area, including any available maps of underground water resources and recharge areas, and an explanation of why those characteristics make it especially vulnerable to the threats posed by releases from UST systems, considering the criteria in subsection (2) of this section;

(iii) A description of the more stringent requirements that would apply to UST systems in the area, and an explanation of why more stringent requirements are necessary to protect the area, considering:

(A) The possible impacts of contaminated groundwater on human health and the environment;

(B) Whether the statewide requirements of this chapter are sufficient to prevent releases that may contaminate the groundwater; and

(C) A description of any other measures in place or considered to protect groundwater or surface water from environmental threats;

(iv) Any written comments submitted by the public on the proposed designation under subsection (3) of this section, and an explanation of how those comments were addressed; and

(v) Documentation of coordination with affected state and local agencies and water user groups under subsection (3) of this section.

(b) **Additional information.** The department may require additional information from the applicant if necessary to adequately evaluate the proposal. This information may include the following:

(i) The geographic limits of the groundwater recharge zone;

(ii) The geographic limits of the underground water resource;

(iii) The geology within both the recharge zone and the underground water resource;

(iv) The location, yield, well depth, and present use of wells within the limits of the threatened underground water resource;

(v) The estimated capacity of the underground water resource;

(vi) The location, type, and number of UST systems in the area; and

(vii) Such other information the department deems necessary.

(2) **Designation criteria.** When applying to the department to designate an environmentally sensitive area, the applicant must demonstrate that the physical characteristics of the area make it especially vulnerable to the threats posed by releases from UST systems and that more stringent

requirements for UST systems are necessary to protect the area. To do this, the applicant must demonstrate either:

(a) That the area is designated as a sensitive area for the purposes of protecting groundwater or surface water from pollution under another statute or regulation. If this demonstration is made, then the department shall approve its designation as an environmentally sensitive area. Those areas include the following:

(i) An aquifer identified as the primary source of supply for public water supply systems;

(ii) An aquifer underlying a critical water supply service area where the coordinated water system plan established pursuant to chapter 70.116 RCW has identified a need for a groundwater management program;

(iii) An aquifer designated as a sole source aquifer by the U.S. Environmental Protection Agency;

(iv) An area designated as a certified groundwater management area under chapter 173-100 WAC; and

(v) An area designated as an aquifer protection area under chapter 36.36 RCW; or

(b) That the area meets one or more of the following criteria. If this demonstration is made, then the department shall evaluate the application based on the overall sensitivity of the environment and the need for more stringent requirements:

(i) The groundwater underlying the area is vulnerable to releases from UST systems based on the hydrogeological characteristics of the area, including the following:

(A) Whether the area is a recharge area for underlying groundwater;

(B) The depth to groundwater;

(C) The permeability of the soils;

(D) The amount of precipitation;

(E) The direction and quantity of groundwater flow; and

(F) The presence of aquitards;

(ii) Proximity of the area to surface water that is hydrogeologically connected to groundwater if releases from an UST system may reasonably reach such groundwater based on the hydrogeological characteristics of the area;

(iii) Proximity of the area to surface water and wetlands;

(iv) The area is located within a one hundred-year flood plain; or

(v) Other criteria published by the department.

(3) **Public involvement.** Before submitting an application for designation and approval of more stringent UST system requirements under subsection (1) of this section, the applicant must:

(a) Provide the public, affected local, state, and tribal agencies, and affected water user groups adequate notice and opportunity to comment on the application; and

(b) Hold at least one public hearing for the purpose of receiving comments on the application from such persons.

(4) **Review and approval.**

(a) **Completeness.** Within thirty days of receiving an application, the department shall review the application for completeness and request any additional information needed in order for the application to be complete.

(b) **Public hearing.** Before approving or disapproving the application, the department may, at its discretion, hold an additional public hearing in the jurisdiction where the environmentally sensitive area is proposed.

(c) **Determination.** The department shall approve or disapprove the application. The department's determination shall be based on:

(i) Review of the application and any comments received;

(ii) Whether the area to be designated meets the definition of an environmentally sensitive area, based on the criteria specified in this section; and

(iii) Whether the proposed more stringent UST system requirements are necessary and reasonably consistent with previously approved local regulations for similar environmentally sensitive areas.

(d) **Resubmittal.** Applications disapproved by the department may be modified by the local government and resubmitted to the department for approval.

(5) **Applicability of approved programs.** Proposed local ordinances and resolutions shall become effective when approved by the department. An approved local ordinance or resolution may only apply to UST systems installed after the effective date of the ordinance or resolution.

(6) **Local tank fees.** A city, town, or county with an approved ordinance or resolution under this section may establish an annual local tank fee in the environmentally sensitive area, subject to the approval of the department. To be approved, the annual local tank fee must not exceed fifty percent of the annual state tank fee, and must be demonstrated to be necessary for enhanced program administration and enforcement. Annual local tank fees authorized and collected under this section shall be deposited in the state underground storage tank account, established under RCW 90.76.100.

NEW SECTION

WAC 173-360A-0140 Intergovernmental agreements. In order to fully implement this chapter, and to protect surface and groundwater resources that may cross jurisdictional boundaries, the department may negotiate and enter into cooperative agreements with Indian tribal governments, adjacent states, and Canadian governmental agencies. Such cooperative agreements shall not affect the regulatory jurisdiction of any party thereto with regard to any civil or criminal matters otherwise exercised by any party. Intergovernmental agreements shall further the purpose of this chapter, serve to establish a framework for intergovernmental coordination and cooperation, and serve to minimize duplication and efficiently utilize program resources to manage underground storage tanks and protect surface and groundwater resources.

NEW SECTION

WAC 173-360A-0150 Definitions. For the purposes of this chapter, the following definitions shall apply unless the context clearly requires otherwise.

(1) "**Airport hydrant fuel distribution system**" or "**airport hydrant system**" means an UST system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, railcar, or other motor fuel carrier.

(2) "**Ancillary equipment**" means any devices including spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, containment sumps, and such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

(3) "**Cathodic protection**" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an UST system can be cathodically protected through the application of either galvanic anodes or impressed current.

(4) "**Cathodic protection tester**" means an individual who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such individuals must have sufficient education in and experience with soil resistivity, stray current, structure-to-soil potential, component electrical isolation measurements of buried metal piping and tank systems. Such individuals must be certified in accordance with WAC 173-360A-0930(6).

(5) "**Change-in-service**" means to change the substances stored in an UST system from regulated substances to unregulated substances.

(6) "**Class A operator**" means an individual designated by an UST system owner or operator as having primary responsibility for the operation and maintenance of the system. The Class A operator typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

(7) "**Class B operator**" means an individual designated by an UST system owner or operator as having control of or responsibility for the day-to-day operation and maintenance of the system. The Class B operator typically performs or ensures the performance of operation and maintenance activities at a UST facility, maintains records of those activities, and reports those activities to the department.

(8) "**Class C operator**" means an individual responsible for initially responding to alarms or other indications of emergencies caused by spills, overfills, leaks, or releases from an UST system. The Class C operator typically controls or monitors the dispensing or sale of regulated substances from the system.

(9) "**Code of practice**" means the most recent edition of a code of practice developed by a nationally or internationally recognized association or independent testing laboratory available at the time an UST system service is performed.

(10) "**Compatible**" means the ability of two or more substances or materials to maintain their respective physical and chemical properties upon contact with one another for the design life of the UST system under conditions likely to be encountered in the UST system.

(11) "**Connected piping**" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to an UST system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

(12) "**Containment sump**" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps, and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

(13) "**Corrosion expert**" means an individual who, by reason of a thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such individuals must be certified in accordance with WAC 173-360A-0930(5).

(14) "**Decommission**" means to permanently take a tank or pipe out of operation.

(15) "**Department**" means the department of ecology.

(16) "**Dielectric material**" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

(17) "**Dispenser**" means a device used to dispense regulated substances from an UST system.

(18) "**Dispenser system**" means a dispenser and the aboveground equipment necessary to connect the dispenser to an UST system, including check valves, shear valves, unburied risers, flexible connectors, and other transitional components.

(19) "**Double-walled tanks**" and "**double-walled piping**" mean tanks and piping consisting of an inner wall and an outer wall with an interstitial space capable of being monitored for leaks.

(20) "**Electrical equipment**" means, for the purposes of the exemption described in WAC 173-360A-0110 (1)(i), underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(21) "**Environment**" means the term as defined in WAC 173-340-200.

(22) "**Excavation zone**" means the volume containing the UST system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

(23) "**Existing UST system**" means an UST system used to contain an accumulation of regulated substances or for which installation had commenced on or before December 22, 1988. Installation is considered to have commenced if:

(a) The owner or operator had obtained all federal, state, and local approvals or permits necessary to begin physical construction at the UST facility or installation of the UST system; and

(b) Either a continuous on-site physical construction or installation program had begun or the owner or operator had entered into contractual obligations—which cannot be canceled or modified without substantial loss—for physical con-

struction at the UST facility or installation of the UST system to be completed within a reasonable time.

(24) "**Facility compliance tag**" means a white-colored metal plate with a green-colored identification number issued by the department for display at a UST facility in a location clearly visible to the product deliverer and persons withdrawing waste oil. Each UST facility is identified by a facility compliance tag. Except as otherwise provided in this chapter, it is unlawful for regulated substances to be delivered or deposited into an UST system, or withdrawn from a waste oil UST system, at a UST facility without a valid and properly displayed facility compliance tag.

(25) "**Farm UST system**" means an UST system located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm UST system must be located on the farm property and used for farm purposes. "Farm" includes fish hatcheries, rangeland, and nurseries with growing operations. It does not include laboratories where animals are raised, land used to grow timber, pesticide aviation operations, retail stores or garden centers where nursery products are marketed but not grown, cemeteries, golf courses, or other facilities dedicated primarily to recreation or aesthetics, or other nonagricultural activities.

(26) "**Field-constructed tank**" means an underground storage tank that is constructed in the field. For example, the following are considered field-constructed tanks: A tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field.

(27) "**Flow-through process tank**" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

(28) "**Free product**" means the term as defined in WAC 173-340-200.

(29) "**Gathering lines**" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

(30) "**Groundwater**" means the term as defined in WAC 173-340-200.

(31) "**Hazardous substance**" means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sec. 9601(14)). However, the term does not include any substance regulated as a hazardous waste under Subtitle C of the Solid Waste Disposal Act (42 U.S.C. Sec. 6921 through 6939e) or any mixture of such hazardous wastes and other regulated substances.

(32) "**Hazardous substance UST system**" means an UST system that contains a hazardous substance or any mixture of such substances and petroleum, and which is not a petroleum UST system.

(33) "**Hydraulic lift tank**" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

(34) "**Include**" means including, but not limited to.

(35) "**Install**" means placing an UST system or any UST system component in position and preparing it to be placed into operation.

(36) "**Interstitial space**" means the space between the primary and secondary containment systems (e.g., the space between the inner and outer walls of a tank or pipe).

(37) "**License**" means the business license underground storage tank endorsement issued by the department of revenue under chapter 19.02 RCW.

(38) "**Liquid trap**" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

(39) "**Maintenance**" means the normal operational upkeep to prevent an UST system from releasing a regulated substance.

(40) "**Motor fuel**" means a complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (for example: Motor gasoline blended with alcohol).

(41) "**New UST system**" means an UST system that will be used to contain an accumulation of regulated substances and for which installation commenced after December 22, 1988. (See also "existing tank system.")

(42) "**Noncommercial purposes**" with respect to motor fuel means not for resale.

(43) "**Operational life**" means the period beginning when installation of an UST system has commenced and ending when the UST system is permanently closed or undergoes a change-in-service.

(44) "**Operator**" means any person in control of, or having responsibility for, the daily operation of the UST system.

(45) "**Owner**" means:

(a) In the case of an UST system in use before November 8, 1984, but no longer in use on that date, any person who owned the UST system immediately before the discontinuation of its use;

(b) In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who:

(i) Currently owns the UST system; or

(ii) Owned the UST system immediately before its permanent closure or change-in-service; and

(c) In the event that the owner of an UST system cannot be physically located, the "owner" shall be the person who owns the property where the UST system is located. The term "owner" does not include any person who holds indicia of ownership primarily to protect the person's security interest in the UST system or the UST facility or property where the UST system is located. The person holding indicia of ownership cannot participate in the management of an UST system or be engaged in petroleum production, refining, and marketing.

(46) "**Permanently closed UST system**" means:

(a) In the case of an UST system taken out of operation before December 22, 1988, the UST system was substantially emptied of regulated substances or permanently altered structurally to prevent reuse;

(b) In the case of an UST system taken out of operation on or after December 22, 1988, and before December 29, 1990, the UST system was permanently closed in accordance with 40 C.F.R. Sec. 280; and

(c) In the case of an UST system taken out of operation on or after December 29, 1990, the UST system was permanently closed in accordance with this chapter.

(47) "**Person**" means an individual, trust, firm, joint stock company, corporation, association, partnership, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, interstate body, federal government, or agency of the federal government.

(48) "**Petroleum**" means crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7 pounds per square inch absolute) and any product comprised of a complex blend of hydrocarbons, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils. The term does not include propane or asphalt or any other product that is not liquid at standard conditions of temperature and pressure.

(49) "**Petroleum UST system**" means an UST system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(50) "**Pipe**" or "**piping**" means a hollow cylinder or tubular conduit that is constructed of nonearthen materials.

(51) "**Pipeline facilities (including gathering lines)**" means any new and existing pipe rights of way and any associated equipment, facilities, or buildings.

(52) "**Piping run**" means all underground piping connecting an individual submersible pump or suction stub to an associated dispenser system or other end-use equipment.

(53) "**Previously deferred UST system**" means an UST system with field-constructed tanks or an airport hydrant fuel distribution system.

(54) "**Product deliverer**" means any person who delivers or deposits product into an UST system. This term includes major oil companies, jobbers, petroleum transportation companies, or other product delivery entities.

(55) "**Rectifier adjustment**" means any adjustment or maintenance of a rectifier that is part of an impressed current cathodic protection system, including any adjustment of voltage or amperage or replacement of fuses or diodes. Rectifier adjustments are a type of repair.

(56) "**Red tag**" means a red-colored tag or device on the fill pipe of an UST system that clearly identifies the system as ineligible for product delivery or waste oil withdrawal. The tag or device is tamper resistant and is easily visible to the product deliverer and persons withdrawing waste oil. The tag or device clearly states and conveys, as applicable, that it is unlawful for regulated substances to be delivered or depos-

ited into an UST system or withdrawn from a waste oil UST system.

(57) "**Regulated substance**" means:

(a) Petroleum;

(b) Hazardous substances; and

(c) Mixtures of petroleum and hazardous substances.

(58) "**Release**" means any spilling, overfilling, leaking, emitting, discharging, escaping, leaching, or disposing of regulated substances from an UST system into the environment.

(59) "**Release detection**" means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary containment.

(60) "**Remedial action**" means the term as defined in WAC 173-340-200.

(61) "**Repair**" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, containment sump, or other UST system component that has caused a release of a regulated substance from the UST system or has failed to function properly.

(62) "**Residential UST system**" means an UST system located on property used primarily for dwelling purposes. Such properties do not include dormitories, convents, mobile parks, apartments, hotels and similar facilities, unless the UST system is used by the owner solely for his or her own personal use, rather than to maintain the overall facility.

(63) "**Secondary containment**" means a release prevention system for tanks and piping consisting of an inner barrier and an outer barrier with an interstitial space capable of being monitored for leaks. This term includes containment sumps when used for interstitial monitoring of piping.

(64) "**Septic tank**" means a water-tight covered receptacle designed and used to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

(65) "**Service provider**" means an individual who is certified to perform or directly supervise the performance of UST system services under WAC 173-360A-0920 and 173-360A-0930.

(66) "**Site assessment**" means an investigation of the environment around an UST system to determine whether there has been a release of regulated substances from the system into the environment and whether a release may pose a threat to human health or the environment.

(67) "**Site check**" means a type of site assessment performed when a release from an UST system is suspected.

(68) "**Stormwater or wastewater collection system**" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collec-

tion of stormwater and wastewater does not include treatment except where incidental to conveyance.

(69) "**Surface impoundment**" means a natural topographic depression, excavation, or diked area formed primarily of earthen materials (although it may be lined with synthetic materials) that is not an injection well.

(70) "**Tank**" is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearth materials (e.g., concrete, steel, plastic) that provide structural support.

(71) "**Temporarily closed UST system**" means an UST system that has been taken out of operation and will be returned to operation, undergo a change-in-service, or be permanently closed in the future.

(72) "**Tightness testing**" means a procedure for testing the ability of an UST system component to prevent an inadvertent release of regulated substances into the environment or an intrusion of groundwater into an UST system.

(73) "**Under-dispenser containment**" or "**UDC**" means containment underneath a dispenser system designed to prevent leaks from the dispenser and piping within or above the UDC from reaching the environment.

(74) "**Underground storage tank**" or "**UST**" means any one tank or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten percent or more beneath the ground surface or otherwise covered by earthen materials.

(75) "**Upgrade**" means the addition or retrofit of an UST system component, such as corrosion protection equipment, release detection equipment, or spill and overfill prevention equipment, to improve the ability of an UST system to prevent the release of regulated substances.

(76) "**UST facility**" means the location where one or more UST systems are or will be installed. The term encompasses all contiguous real property under common ownership associated with the operation of the UST system or systems.

(77) "**UST system**" or "**tank system**" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

(78) "**UST system component**" means a component of an UST system, including any underground storage tanks, connected underground piping, underground ancillary equipment, and containment systems.

(79) "**UST system services**" means the services performed on an UST system requiring the use of a service provider as specified in WAC 173-360A-0920.

(80) "**Wastewater treatment tank system**" means a tank system that is designed to receive and treat influent wastewater through physical, chemical, or biological methods.

NEW SECTION

WAC 173-360A-0190 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances is not affected.

PART 2

ADMINISTRATION AND ENFORCEMENT

NEW SECTION

WAC 173-360A-0200 Licensing of UST systems.

(1) **Requirement for a license.** An owner or operator shall maintain a license for each tank until the UST system has undergone permanent closure or a change-in-service. Without the prior written authorization of the department, an UST system may not be operated without a license for each tank. Possession of a license does not preclude enforcement against owners and operators under this chapter, chapter 90.76 RCW, or other laws.

(2) **Eligibility for a license.** To be eligible for a license, an UST system must be in compliance with the requirements of this chapter and chapter 90.76 RCW.

(3) Application for a license.

(a) An owner or operator must apply for a license within thirty days of the following:

- (i) Installation of an UST system or tank; or
- (ii) Change in the owner or operator that is the licensee.
- (b) To apply for a license, an owner or operator must submit the following to the department of revenue:
 - (i) Business license application;
 - (ii) Underground storage tank addendum;
 - (iii) Certification of financial responsibility and, if applicable, certificate of insurance or endorsement (WAC 173-360A-1045 (1)(a));
 - (iv) Annual tank fees (WAC 173-360A-0210) and any other applicable fees identified by the department of revenue (WAC 458-02-200(2)); and

(v) When applying upon installation of an UST system or a tank, the documentation required under WAC 173-360A-0300 (5)(a).

(c) Applications for UST systems located at different UST facilities must be submitted using separate forms, one for each facility.

(4) Notification of changes in financial assurances.

Upon any change in the financial assurance mechanism(s) used to demonstrate financial responsibility or upon receipt of a notice of cancellation or termination of any such mechanism, the owner or operator must immediately notify the department of revenue in accordance with WAC 173-360A-1045 (1)(b) and (c). Licenses will not be renewed and may be revoked without proof of financial responsibility.

(5) **Notification of changes in owners or operators that are not licensees.** When the owner or operator that is not the licensee changes, the owner or operator must notify the department of ecology in writing within thirty days.

(6) Renewal of a license.

(a) Licenses must be renewed annually. To renew a license, the owner or operator must submit the following to the department of revenue:

- (i) Renewal application; and
- (ii) Annual tank fees (WAC 173-360A-0210) and any other applicable fees identified by the department of revenue (WAC 458-02-200(2)).

(b) If a license is not renewed by the expiration date, the department of revenue may assess a delinquency fee (WAC 458-02-200 (2) and (8)(b)). The department of ecology may also assess a penalty under WAC 173-360A-0290.

(7) **Display of a license.** Licenses must be displayed in a conspicuous place at the UST facility where the tanks are located (RCW 90.76.020(4) and WAC 458-02-200(7)).

(8) **Revocation and appeals.** The department of ecology may revoke a license if an UST system is violating any requirement of this chapter or chapter 90.76 RCW. The revocation of a license may be appealed to the pollution control hearings board in accordance with chapter 43.21B RCW.

NEW SECTION

WAC 173-360A-0210 Fees for UST systems. (1) **Payment.** Annually, the owner of an UST system shall pay the following fees for each tank until the system has undergone permanent closure or a change-in-service:

(a) The state tank fee specified by the department under subsection (3) of this section; and

(b) Any applicable local tank fee approved by the department under WAC 173-360A-0130(6).

(2) **Disposition.** State and local tank fees collected under this section shall be deposited in the account established under RCW 90.76.100.

(3) **State tank fees.** Effective July 1, 2018, the state tank fee is one hundred seventy-three dollars and eighty cents per tank. Annually, upon a finding by the department that a fee increase is necessary, the department may increase the state tank fee up to the fiscal growth factor for the next year. The fiscal growth factor is calculated by the office of financial management under RCW 43.135.025. The department shall publish the new fee by March 1st before the year for which the new fee is effective. The new fee is effective from July 1st to June 30th of every year.

(4) **Preemption of local tank fees.** Except as provided under WAC 173-360A-0130(6), no local government may levy an annual tank fee on the ownership or operation of an underground storage tank.

NEW SECTION

WAC 173-360A-0220 Facility compliance tags. (1) **Requirement for tag.** Without the prior written authorization of the department, regulated substance may not be delivered or deposited into an UST system, or withdrawn from a waste oil UST system, at a UST facility without a valid and properly displayed facility compliance tag.

(2) **Eligibility for tag.** To be eligible for a facility compliance tag, a UST facility must be in compliance with the requirements of this chapter and chapter 90.76 RCW.

(3) **Issuance of tag.** The department will issue a facility compliance tag for a UST facility upon the initial issuance of a license for an UST system at the facility under WAC 173-360A-0200.

(4) **Display of tag.** A facility compliance tag must be displayed at a UST facility in a location that is clearly visible to product deliverers and persons withdrawing waste oil.

(5) **Revocation and appeals.** The department may revoke a facility compliance tag if a UST facility is violating

any requirement of this chapter or chapter 90.76 RCW. The revocation of a facility compliance tag may be appealed to the pollution control hearings board in accordance with chapter 43.21B RCW.

(6) **Return upon temporary closure of facility.** Within thirty days of the temporary closure all UST systems at a UST facility, owners and operators must return the facility compliance tag to the department if the systems will be closed for more than ninety days. The department will reissue a facility compliance tag for the UST facility in accordance with WAC 173-360A-0800 (5)(c).

(7) **Return upon permanent closure or change-in-service of facility.** Within thirty days of the permanent closure or change-in-service of all UST systems at a UST facility, owners and operators must return the facility compliance tag to the department.

NEW SECTION

WAC 173-360A-0230 Reporting requirements. (1) **Licensing of UST systems.** An owner or operator shall apply for and renew licenses for UST systems and provide notice of any change in the owner or operator of an UST system in accordance with WAC 173-360A-0200.

(2) **Changes to UST systems.** Owners and operators shall notify the department of the following changes in the status of an UST system in accordance with the applicable requirements of this chapter:

(a) Intent to install an UST system or a tank or piping run (WAC 173-360A-0300(1));

(b) Change in the regulated substance stored in an UST system and, if applicable, demonstration of compatibility (WAC 173-360A-0410);

(c) Change in the release detection method used for a tank or pipe (WAC 173-360A-0600(4));

(d) Temporary closure of an UST system (WAC 173-360A-0800(1));

(e) Emptying of a temporarily closed UST system (WAC 173-360A-0800(2));

(f) Return to operation of a temporarily closed UST system (WAC 173-360A-0800 (5)(b)(ii));

(g) Intent to permanently close an UST system or a tank or piping run (WAC 173-360A-0810(1));

(h) Permanent closure of a partially exempt UST system (WAC 173-360A-0810(5));

(i) Intent to undertake a change-in-service of an UST system (WAC 173-360A-0820(1)); and

(j) Change-in-service of a partially exempt UST system (WAC 173-360A-0820(5)).

(3) **UST system services.** Owners and operators shall report the following UST system services to the department in accordance with the applicable requirements of this chapter:

(a) Installations of UST systems or UST system components (WAC 173-360A-0300);

(b) Assessments of corrosion potential (WAC 173-360A-0310 (3)(c));

(c) Upgrades of existing UST systems (WAC 173-360A-0320);

- (d) Upgrades of previously deferred UST systems (WAC 173-360A-0330);
- (e) Tests of cathodic protection systems (WAC 173-360A-0430(2));
- (f) Internal inspections of lined tanks (WAC 173-360A-0440);
- (g) Tightness tests of containment sumps used for interstitial monitoring of piping (WAC 173-360A-0450);
- (h) Tightness tests of spill prevention equipment (WAC 173-360A-0460);
- (i) Inspections of overfill prevention equipment (WAC 173-360A-0470);
- (j) Tests of electronic or mechanical release detection equipment (WAC 173-360A-0480);
- (k) Repairs of UST system components (WAC 173-360A-0490);
- (l) Tightness tests of secondary containment areas of tanks or piping used for interstitial monitoring (WAC 173-360A-0490 (4)(c));
- (m) Tightness tests of tanks (WAC 173-360A-0635);
- (n) Tightness tests of piping (WAC 173-360A-0650);
- (o) Site evaluations for vapor or groundwater monitoring systems (WAC 173-360A-0660(2) or 173-360A-0665(2));
- (p) Site assessments, including site checks (WAC 173-360A-0730);
- (q) Decommissioning of UST systems, or tanks or piping runs that are part of an UST system, upon permanent closure (WAC 173-360A-0810(2)); and
- (r) Decommissioning of UST systems upon a change-in-service (WAC 173-360A-0820(2)).

(4) Releases from UST systems. Owners and operators shall notify the department of the following in accordance with the applicable requirements of this chapter:

- (a) All suspected releases (WAC 173-360A-0700);
- (b) All spills and overfills resulting in a release that may pose a threat to human health or the environment or that have not been cleaned up within twenty-four hours (WAC 173-360A-0740); and
- (c) All confirmed releases that may pose a threat to human health or the environment (WAC 173-360A-0750(1)).

(5) Cleanups of releases from UST systems. Owners and operators shall report remedial actions to the department in accordance with chapter 173-340 WAC or as otherwise directed by the department under chapter 90.48 RCW (WAC 173-360A-0750(4)).

(6) Financial responsibility for UST systems.

(a) Owners or operators shall demonstrate compliance with financial responsibility requirements in accordance with WAC 173-360A-1045(1) and 173-360A-0200 (3) and (4).

(b) Owners or operators shall submit financial responsibility records in accordance with WAC 173-360A-1045 (2) and (3) and 173-360A-0750(3).

(7) Requirements for sellers and lessors.

(a) Any person who sells a tank shall notify the new owner of the licensing requirements in WAC 173-360A-0200.

(b) Any person who leases a tank shall notify the new operator of the licensing requirements in WAC 173-360A-0200.

(8) Requirements for service providers. Service providers shall:

- (a) Document the UST system services specified in subsection (3) of this section in accordance with the applicable requirements of this chapter (WAC 173-360A-0940(4));

- (b) Notify owners and operators when they determine that the UST system for which they are providing services is not in compliance with the requirements of this chapter in accordance with WAC 173-360A-0940(5); and

- (c) Report confirmed releases from UST systems to owners and operators and to the department in accordance with WAC 173-360A-0940(6).

(9) Requirements for product deliverers and waste oil collectors. Product deliverers and waste oil collectors shall report any spill or overfill of regulated substances to the owner or operator in accordance with WAC 173-360A-0405 (4).

NEW SECTION

WAC 173-360A-0240 Recordkeeping requirements.

(1) Records. Owners and operators shall maintain records of the following in accordance with the applicable requirements of this chapter:

- (a) Installations of UST systems and UST system components (WAC 173-360A-0300);
- (b) Assessments of corrosion potential (WAC 173-360A-0310 (3)(c));
- (c) Upgrades of existing UST systems (WAC 173-360A-0320);
- (d) Upgrades of previously deferred UST systems (WAC 173-360A-0330);
- (e) Compatibility of UST system components (WAC 173-360A-0350);
- (f) Periodic walkthrough inspections (WAC 173-360A-0420);
- (g) Tests of cathodic protection systems (WAC 173-360A-0430(2));
- (h) Rectifier inspections (WAC 173-360A-0430(3));
- (i) Internal inspections of lined tanks (WAC 173-360A-0440);
- (j) Periodic monitoring and tightness tests of containment sumps used for interstitial monitoring of piping (WAC 173-360A-0450);
- (k) Periodic monitoring and tightness tests of spill prevention equipment (WAC 173-360A-0460);
- (l) Inspections of overfill prevention equipment (WAC 173-360A-0470);
- (m) Operation and maintenance, including tests, of release detection equipment (WAC 173-360A-0480);
- (n) Repairs of UST system components (WAC 173-360A-0490);
- (o) Tightness tests of secondary containment areas of tanks and piping used for interstitial monitoring (WAC 173-360A-0490 (4)(c));
- (p) Current operation and maintenance plans (WAC 173-360A-0545);
- (q) Currently designated operators and training (WAC 173-360A-0560);

- (r) Compliance with release detection requirements (WAC 173-360A-0600);
- (s) Site assessments, including site checks (WAC 173-360A-0730);
- (t) Investigation and cleanup of confirmed releases (WAC 173-360A-0750(4) and 173-340-850); and
- (u) Compliance with financial responsibility requirements (WAC 173-360A-1040).

(2) **Retention of records.** Records must be maintained for the period specified by the rules in effect at the time the records were created.

(3) **Availability of records.** Owners and operators shall make all records required under subsection (1) of this section readily available for inspection upon request by the department.

(4) **Transfer of records.** Owners and operators shall transfer all records required under subsection (1) of this section to new owners and operators.

(5) **Service providers.** Service providers shall maintain records of their certification in accordance with WAC 173-360A-0940 (1)(b).

NEW SECTION

WAC 173-360A-0250 Compliance monitoring, investigation, and access. (1) The department's compliance monitoring program, including procedures for inspections and recordkeeping, shall be consistent with and no less stringent than the program required by 40 C.F.R. Sec. 281.40, as amended, and section 9005 of the Solid Waste Disposal Act (42 U.S.C. Sec. 6991d).

(2) If necessary to determine compliance with the requirements of this chapter or chapter 90.76 RCW, an authorized representative of the state engaged in compliance inspections, monitoring or testing may, by request, require an owner or operator to submit relevant information or documents. The department may subpoena witnesses, documents, and other relevant information that the department deems necessary. In the case of any refusal to obey the subpoena, the superior court for any county in which the person is found, resides, or transacts business has jurisdiction to issue an order requiring the person to appear before the department and give testimony or produce documents. Any failure to obey the order of the court may be punished by the court as contempt.

(3) Any authorized representative of the state may require an owner or operator to conduct monitoring or testing.

(4) Upon reasonable notice, an authorized representative of the state may enter a premises or UST facility subject to regulation under this chapter or in which records relevant to the operation of an UST system are kept. In the event of an emergency or in circumstances where notice would undermine the effectiveness of an inspection, notice is not required. The authorized representative may copy records, obtain samples of regulated substances, and inspect or conduct monitoring or testing of an UST system.

(5) Owners and operators of UST systems shall cooperate fully with inspections, monitoring, and testing conducted by the department, as well as requests for document submissions, testing, and monitoring by the owner or operator under this section.

(6) For purposes of this section, the term "authorized representative" or "authorized representative of the state" means an enforcement officer, employee, or representative of the department.

NEW SECTION

WAC 173-360A-0260 Information sharing. The department's procedures for sharing information with the U.S. Environmental Protection Agency shall be consistent with and no less stringent than those required by 40 C.F.R. Sec. 281.43, as amended.

NEW SECTION

WAC 173-360A-0270 Enforcement. (1) **Authority.** The director of the department of ecology may seek appropriate injunctive or other judicial relief by filing an action in Thurston County superior court or issuing such order as the director deems appropriate to:

(a) Enjoin any threatened or continuing violation of this chapter or chapter 90.76 RCW;

(b) Restrain immediately and effectively a person from engaging in unauthorized activity that results in a violation of any requirement of this chapter or chapter 90.76 RCW and is endangering or causing damage to public health or the environment;

(c) Require compliance with requests for information, access, testing, or monitoring under WAC 173-360A-0250 or RCW 90.76.060;

(d) Prohibit the delivery, deposit, or acceptance of a regulated substance to an UST system identified by the department to be ineligible for such delivery, deposit, or acceptance in accordance with WAC 173-360A-0280 and chapter 90.76 RCW; or

(e) Assess and recover civil penalties authorized under WAC 173-360A-0290 and RCW 90.76.080.

(2) **Procedures.** The department's enforcement procedures shall be consistent with and no less stringent than those required by 40 C.F.R. Sec. 281.41, as amended, and section 9012 of the Solid Waste Disposal Act (42 U.S.C. Sec. 6991k).

(3) **Appeals.** A person subject to an order issued under this chapter may appeal the order to the pollution control hearings board in accordance with RCW 43.21B.310.

(4) **Public participation.** The department's procedures for public participation in the state enforcement process shall be consistent with and no less stringent than those required by 40 C.F.R. Sec. 281.42, as amended. The department will not oppose intervention of right under Superior Court Civil Rule 24(a)(2) in a civil enforcement action taken under this chapter or chapter 90.76 RCW on the grounds that the person's interest is adequately represented by the state.

NEW SECTION

WAC 173-360A-0280 Delivery prohibition. (1) **Authority.** If the department determines the owners and operators of an UST system are violating any requirement of

this chapter or chapter 90.76 RCW, the department may prohibit the delivery, deposit, or acceptance of regulated substances to the system or the entire UST facility where the system is located.

(2) **Procedures.** The department's procedures for enforcing delivery prohibition shall be consistent with and no less stringent than those required by 40 C.F.R. Sec. 281.42, as amended, and section 9012 of the Solid Waste Disposal Act (42 U.S.C. Sec. 6991k).

(3) **Identification.** The department may identify an UST system subject to delivery prohibition by either:

(a) Affixing a red tag to the fill pipe of the system; or

(b) Revoking the facility compliance tag of the UST facility where the system is located.

(4) **Prohibition.** Without the prior written authorization of the department, product deliverers may not deliver or deposit, and owners and operators may not accept the delivery or deposit of, regulated substances into an UST system if:

(a) A red tag is attached to the fill pipe of the system; or

(b) A valid facility compliance tag is not properly displayed at the UST facility where the system is located.

(5) **Withdrawal of waste oil.** Without the prior written authorization of the department, persons may not withdraw, and owners and operators may not allow the withdrawal of, regulated substances from a waste oil UST system subject to delivery prohibition.

(6) **Unauthorized removal of red tags.** No person may remove or alter a red tag without the prior written authorization of the department. The unauthorized removal or alteration of a red tag constitutes a violation of this chapter.

NEW SECTION

WAC 173-360A-0290 Civil penalties. (1) A person who fails to notify the department pursuant to the notification requirements of this chapter, or who submits false information, is subject to a civil penalty not to exceed five thousand dollars per violation.

(2) A person who violates this chapter or chapter 90.76 RCW is subject to a civil penalty not to exceed five thousand dollars for each tank per day of violation.

(3) A person incurring a penalty under this chapter or chapter 90.76 RCW may apply to the department in writing for the remission or mitigation of the penalty as set out in RCW 43.21B.300. A person also may appeal a penalty directly to the pollution control hearings board in accordance with RCW 43.21B.300.

PART 3

INSTALLATION AND PERFORMANCE STANDARDS

NEW SECTION

WAC 173-360A-0300 Installation of UST systems and components. Owners and operators shall ensure UST systems and UST system components are installed in accordance with the requirements of this section.

(1) **Notice of intent to install an UST system or a tank or piping run.** When installing an entire UST system, or a tank or piping run that is part of an UST system, owners and operators shall notify the department as specified in this subsection.

(a) Except for emergency replacements identified under (b) of this subsection, owners and operators shall notify the department of planned installations at least thirty days, but no more than ninety days, before the planned start date using the applicable form provided by the department. Owners and operators shall also confirm the planned start date at least three business days before starting installation.

(b) For emergency replacements, owners and operators shall notify the department before starting the installation. A replacement constitutes an emergency if:

(i) There is a confirmed release from an operating UST system;

(ii) The UST system is located at an operating UST facility; and

(iii) The UST system is necessary for the normal operation of the facility.

(2) **Performance.** An UST system or UST system component must be installed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions and a code of practice. The following codes of practice may be used to meet this requirement:

(i) American Petroleum Institute, Recommended Practice 1615, "Installation of Underground Petroleum Storage System";

(ii) National Fire Protection Association, Standard 30, "Flammable and Combustible Liquids Code," and Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages";

(iii) Petroleum Equipment Institute, Recommended Practice 100, "Recommended Practices for Installation of Underground Liquid Storage Systems";

(iv) Petroleum Equipment Institute, Recommended Practice 1000, "Recommended Practices for the Installation of Marina Fueling Systems";

(v) Petroleum Equipment Institute, Recommended Practice 1400, "Recommended Practices for the Design and Installation of Fueling Systems for Emergency Generators, Stationary Diesel Engines and Oil Burner Systems"; or

(vi) For previously deferred UST systems, military construction criteria, such as U.S. Department of Defense, Unified Facilities Criteria 3-460-01, "Design: Petroleum Fuel Facilities."

(3) **Standards.** The installed UST system or UST system component must meet the performance standards in WAC 173-360A-0310 or 173-360A-0340, as applicable.

(4) **Used tanks.** After (effective date of rule), used tanks may not be installed as part of an UST system.

(5) **Reporting.**

(a) **Installations of UST systems or tanks.** Installations of UST systems or tanks must be reported when applying for a license in accordance with WAC 173-360A-0200(3). The following documentation must be included with the application:

- (i) Certification of installation, completed by the service provider;
- (ii) Manufacturer's installation checklist, completed by the service provider;
- (iii) If required under WAC 173-360A-0310 (3)(c), corrosion potential assessment report, completed by the corrosion expert; and

(iv) An as-built plan of the UST facility that:

- (A) Shows the location of the UST systems (including all tanks, piping, and dispensers) and any adjacent structures or streets;

(B) Identifies and uses appropriate and consistent scales to show all required details in sufficient clarity; and

(C) Contains a title, legend of all symbols used, north arrow, and drafting or origination date.

(b) Installations of other UST system components.

Installations of other UST system components must be reported to the department within thirty days using the applicable checklist provided by the department. Service providers must complete the checklist.

(6) Recordkeeping. Records of installations completed after (effective date of rule) must be maintained until the UST system is permanently closed or undergoes a change-in-service.

NEW SECTION

WAC 173-360A-0310 Performance standards for new UST systems and components. Except as provided under WAC 173-360A-0330, owners and operators shall ensure new UST systems and UST system components meet the performance standards of this section.

(1) Tanks. To prevent releases due to structural failure or corrosion, tanks must meet the performance standards in this subsection.

(a) Metal. Tanks made of metal must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The cathodic protection requirements in subsection (3) of this section, if applicable;

(iii) The secondary containment requirements in subsection (4) of this section, if applicable; and

(iv) A code of practice. The following codes of practice may be used to meet this requirement:

(A) Steel Tank Institute, Specification STI-P3®, "Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks";

(B) Steel Tank Institute, Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks";

(C) Underwriters Laboratories, Standard 1746, "Standard for External Corrosion Protection Systems for Steel Underground Storage Tanks";

(D) Underwriters Laboratories of Canada, Standard S603, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," Standard S603.1, "Standard for External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids," and Standard S631, "Standard for Isolating Bushings for Steel

Underground Tanks Protected with External Corrosion Protection Systems"; or

(E) National Association of Corrosion Engineers International, Standard Practice 0285, "External Corrosion of Underground Storage Tank Systems by Cathodic Protection," and Underwriters Laboratories, Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids."

(b) Clad or jacketed metal. Tanks made of metal and clad or jacketed with a noncorroable material must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The secondary containment requirements in subsection (4) of this section, if applicable; and

(iii) A code of practice. The following codes of practice may be used to meet this requirement:

(A) Underwriters Laboratories, Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks";

(B) Steel Tank Institute, Specification F894, "ACT-100® Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks";

(C) Steel Tank Institute, Specification F961, "ACT-100U® Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks"; or

(D) Steel Tank Institute, Specification F922, "Steel Tank Institute Specification for Permatank®."

(c) Fiberglass-reinforced plastic. Tanks made of fiberglass-reinforced plastic must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The secondary containment requirements in subsection (4) of this section, if applicable; and

(iii) A code of practice. The following codes of practice may be used to meet this requirement:

(A) Underwriters Laboratories, Standard 1316, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures"; or

(B) Underwriters Laboratories of Canada, Standard S615, "Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids."

(d) Other materials. Tanks made of materials other than those specified in (a) through (c) of this subsection must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The secondary containment requirements in subsection (4) of this section, if applicable; and

(iii) The tank construction and corrosion protection are determined by the department to prevent releases in a manner that is no less protective of human health and the environment than specified in (a) through (c) of this subsection.

(2) Piping. To prevent releases due to structural failure or corrosion, piping must meet the performance standards in this subsection.

(a) Metal. Piping made of metal must be designed and constructed in accordance with the following:

- (i) The compatibility requirements in WAC 173-360A-0350;
- (ii) The cathodic protection requirements in subsection (3) of this section, if applicable;
- (iii) The secondary containment requirements in subsection (5) of this section, if applicable; and
- (iv) A code of practice. The following codes of practice may be used to meet this requirement:

(A) American Petroleum Institute, Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems";

(B) Underwriters Laboratories, Standard 971A, "Outline of Investigation for Metallic Underground Fuel Pipe";

(C) Steel Tank Institute, Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems";

(D) National Association of Corrosion Engineers International, Standard Practice 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"; or

(E) National Association of Corrosion Engineers International, Standard Practice 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection."

(b) **Noncorrodible.** Piping made of a noncorrodible material must be designed and constructed in accordance with the following:

- (i) The compatibility requirements in WAC 173-360A-0350;
- (ii) The secondary containment requirements in subsection (5) of this section, if applicable; and
- (iii) A code of practice. The following codes of practice may be used to meet this requirement:

(A) Underwriters Laboratories, Standard 971, "Nonmetallic Underground Piping for Flammable Liquids"; or

(B) Underwriters Laboratories of Canada, Standard S660, "Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids."

(c) **Other materials.** Piping made of materials other than those specified in (a) and (b) of this subsection must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The secondary containment requirements in subsection (5) of this section, if applicable; and

(iii) The piping construction and corrosion protection are determined by the department to prevent releases in a manner that is no less protective of human health and the environment than specified in (a) and (b) of this subsection.

(3) Cathodic protection of metal tanks and piping.

(a) **Applicability.** The following tanks and piping must be cathodically protected in accordance with the requirements in (b) of this subsection unless the environment is determined not to be corrosive enough in accordance with the requirements in (c) of this subsection:

(i) Any portion of a metal tank that is underground and routinely contains regulated substances; and

(ii) Any metal piping that routinely contains regulated substances and is in contact with the ground.

(b) **Performance standards.** Metal tanks and piping must be cathodically protected as follows:

(i) The tank or piping must be coated with a suitable dielectric material;

(ii) The tank or piping must be equipped with a factory-installed or field-installed cathodic protection system designed by a corrosion expert; and

(iii) The cathodic protection system must be designed to allow for the operation and maintenance of the system as specified in WAC 173-360A-0430, including testing and rectifier inspections.

(c) **Noncorrosive environment.** Metal tanks and piping do not need to be cathodically protected if:

(i) Before installation and every five years thereafter:

(A) A corrosion expert assesses the environment around the UST system and determines that it is not corrosive enough to cause the system to have a release due to corrosion during its operational life;

(B) A report documenting the assessment, including the determination and its basis, and the person who performed the assessment, including their certification type and number, is completed by the corrosion expert; and

(C) The report is submitted as follows:

(I) For assessments performed before installation, the report is submitted to the department of revenue when applying for a license in accordance with WAC 173-360A-0200(3) and 173-360A-0300 (5)(a); and

(II) For assessments performed after installation, the report is submitted to the department of ecology within thirty days of completing the assessment; and

(ii) The owners and operators maintain records demonstrating compliance with the requirements of (c)(i) of this subsection, including the reports, until the UST system is permanently closed or undergoes a change-in-service.

(4) Secondary containment of tanks.

(a) **Applicability.** Tanks must be secondarily contained in accordance with the requirements in (b) of this subsection if:

(i) The tank is part of a hazardous substance UST system; or

(ii) The tank is part of a petroleum UST system, and the tank is installed or replaced after October 1, 2012.

(b) **Performance standards.** Tanks must be double-walled and designed and constructed to:

(i) Contain any regulated substances leaking from the primary space (through the inner wall) within the interstitial space until they are detected and removed;

(ii) Prevent the release of regulated substances into the environment throughout the operational life of the UST system; and

(iii) Allow for interstitial monitoring.

(5) Secondary containment of piping.

(a) **Applicability.** Piping must be secondarily contained in accordance with the requirements in (c) of this subsection unless:

(i) The piping is part of an airport hydrant system;

(ii) The piping is part of an UST system with field-constructed tanks greater than fifty thousand gallons;

(iii) The piping is part of a petroleum UST system, and the piping was installed or replaced on or before October 1, 2012;

(iv) The piping does not routinely contain regulated substances, including suction piping meeting the standards in WAC 173-360A-0600 (1)(b)(i) through (v); or

(v) The piping replaces less than fifty percent of a single-walled piping run.

(b) **Replacement.** Unless otherwise directed by the department, if fifty percent or more of a single-walled piping run is replaced after October 1, 2012, then the entire piping run must be replaced with double-walled piping meeting the requirements in (c) of this subsection.

(c) **Performance standards.** Piping must be double-walled. Containment sumps may also be used as part of the secondary containment and interstitial monitoring system for piping.

(i) **Piping.** Double-walled piping must be designed and constructed to:

(A) Contain any regulated substances leaking from the primary space (through the inner wall) within the piping's interstitial space or a containment sump until they are detected and removed;

(B) Prevent the release of regulated substances into the environment throughout the operational life of the UST system; and

(C) Allow for interstitial monitoring within either the piping's interstitial space or a containment sump.

(ii) **Containment sumps.** Containment sumps used as part of the secondary containment and interstitial monitoring system for piping must be designed and constructed to:

(A) Meet the compatibility requirements in WAC 173-360A-0350;

(B) Be liquid-tight on its sides, bottom, and at any penetrations;

(C) Allow for visual inspection and access to the components in the sump; and

(D) Allow for interstitial monitoring of the piping. The piping's interstitial space must be exposed within the sump. Sensors must be placed within the sump where they are able to detect any leak of regulated substances.

(6) **Under-dispenser containment.**

(a) **Applicability.** UST systems connected to a dispenser must be equipped with under-dispenser containment meeting the requirements in (b) of this subsection if the dispenser, dispenser system, or underground piping connected to the dispenser system is installed or replaced after October 1, 2012.

(b) **Performance standards.** Under-dispenser containment must be:

(i) Designed and constructed to:

(A) Meet the compatibility requirements in WAC 173-360A-0350;

(B) Be liquid-tight on its sides, bottom, and at any penetrations; and

(C) Allow for visual inspection and access to the components in the containment system; and

(ii) If installed or replaced after (effective date of rule), factory-built or machine-tooled, unless otherwise approved by the department.

(7) **Spill prevention equipment.**

(a) **Applicability.** To prevent spilling associated with product transfers, UST systems filled by transfers of more than twenty-five gallons at one time must be equipped with spill prevention equipment that:

(i) Meets the requirements in (b) of this subsection; or

(ii) Is determined by the department to be no less protective of human health and the environment.

(b) **Performance standards.** Spill prevention equipment must be designed and constructed to:

(i) Meet the compatibility requirements in WAC 173-360A-0350;

(ii) Prevent releases when the transfer hose is detached from the fill pipe; and

(iii) Be liquid-tight on its sides, bottom, and at any penetrations.

(8) **Overflow prevention equipment.**

(a) **Applicability.** To prevent overfilling associated with product transfers, UST systems filled by transfers of more than twenty-five gallons at one time must be equipped with overfill prevention equipment that:

(i) Meets the requirements in (b) of this subsection; or

(ii) Is determined by the department to be no less protective of human health and the environment.

(b) **Performance standards.** Overfill prevention equipment must be designed and constructed to:

(i) Meet the compatibility requirements in WAC 173-360A-0350; and

(ii) Do one of the following:

(A) Automatically shut off flow into the tank when the tank is no more than ninety-five percent full;

(B) Automatically alert the product deliverer when the tank is no more than ninety percent full by restricting flow into the tank or triggering a high-level audible alarm; or

(C) Automatically restrict flow into the tank thirty minutes before overfilling, automatically alert the product deliverer with a high level audible alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to regulated substances due to overfilling.

(c) **Phase out of flow restrictors.** Flow restrictors used in vent lines may not be used to comply with the requirements of this subsection when overfill prevention equipment is installed, replaced, or repaired after (effective date of rule).

(9) **Release detection equipment.** Release detection equipment must meet the performance standards in Part 6 of this chapter.

(10) **Codes of practice for previously deferred UST systems.** For previously deferred UST systems, in addition to the codes of practice listed in this section, military construction criteria may be used to meet the requirements of this section, such as U.S. Department of Defense, Unified Facilities Criteria 3-460-01, "Design: Petroleum Fuel Facilities."

NEW SECTION

WAC 173-360A-0320 Upgrade requirements for existing UST systems. By December 22, 1998, owners and operators of existing UST systems were required to meet the performance standards for new UST systems in WAC 173-

360A-0310 or the upgrade requirements in this section. Existing UST systems not meeting this requirement must be permanently closed in accordance with WAC 173-360A-0810 unless the tanks meet the requirements of this section and an upgrade is determined to be appropriate by the department. This section does not apply to previously deferred UST systems.

(1) Administration.

(a) The upgrades specified in this section must be performed by or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter.

(b) The upgrades specified in this section must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(c) Records of upgrades completed after (effective date of rule) must be maintained until the UST system is permanently closed or undergoes a change-in-service.

(2) Upgrades.

(a) **Corrosion protection of metal tanks.** Metal tanks must be upgraded to meet one of the following requirements in accordance with a code of practice:

(i) **Internal lining.** A tank may be upgraded by internal lining if:

(A) The lining is installed in accordance with WAC 173-360A-0490; and

(B) Within ten years after lining, and every five years thereafter, the lined tank is internally inspected in accordance with WAC 173-360A-0440 and found to be structurally sound with the lining still performing in accordance with original design specifications, unless cathodic protection is also installed within ten years of lining the tank, as specified in (a)(iii) of this subsection. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice, then the lined tank must be permanently closed in accordance with WAC 173-360A-0810.

(ii) **Cathodic protection.** A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements in WAC 173-360A-0310 (3)(b)(ii) and (iii) and the integrity of the tank is ensured using one of the following methods:

(A) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes before the cathodic protection system is installed;

(B) The tank has been installed or internally lined for less than ten years and is monitored monthly for releases in accordance with WAC 173-360A-0630 or 173-360A-0655 through 173-360A-0675;

(C) The tank has been installed or internally lined for less than ten years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements in WAC 173-360A-0635. The first tightness test must be conducted before the cathodic protection system is installed. The second tightness test must be conducted between three and six months following the first operation of the cathodic protection system; or

(D) The tank is assessed for corrosion holes by a method that is determined by the department to prevent releases in a

manner that is no less protective of human health and the environment than (a)(ii)(A) through (C) of this subsection.

(iii) **Internal lining combined with cathodic protection.** A tank may be upgraded by both internal lining and cathodic protection if:

(A) The lining is installed in accordance with WAC 173-360A-0490; and

(B) The cathodic protection system is installed within ten years of the tank being lined and meets the requirements in WAC 173-360A-0310 (3)(b)(ii) and (iii).

(b) **Corrosion protection of metal tanks - Codes of practice.** The following codes of practice may have been used to meet the requirements in (a) of this subsection:

(i) American Petroleum Institute, Standard 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";

(ii) National Leak Prevention Association, Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining without the Addition of Cathodic Protection";

(iii) National Association of Corrosion Engineers, Recommended Practice 0285, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems";

(iv) American Petroleum Institute, Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; or

(v) Steel Tank Institute, Publication F894-91, "Specifications for External Corrosion Protection FRP Composite Underground Steel Storage Tanks."

(c) **Corrosion protection of metal piping.** Metal piping routinely containing regulated substances and in contact with the ground must be cathodically protected in accordance with a code of practice and meet the requirements of WAC 173-360A-0310 (3)(b)(ii) and (iii). The codes of practice listed in WAC 173-360A-0310 (2)(a)(iv) may be used to meet this requirement.

(d) **Secondary containment of tanks and piping.** Tanks and piping that are part of a hazardous substance UST system must meet the secondary containment requirements in WAC 173-360A-0310 (4) and (5).

(e) **Spill and overfill prevention equipment.** UST systems filled by transfers of more than twenty-five gallons at one time must meet the spill and overfill prevention requirements in WAC 173-360A-0310 (7) and (8).

(f) **Release detection equipment.** Release detection equipment must meet the performance standards in Part 6 of this chapter.

(g) **Compatibility.** UST systems must meet the compatibility requirements in WAC 173-360A-0350.

NEW SECTION

WAC 173-360A-0330 Upgrade requirements for previously deferred UST systems. By (three years after effective date of rule), owners and operators shall ensure previously deferred UST systems installed on or before (effective date of rule) meet the performance standards for new UST systems in WAC 173-360A-0310, meet the upgrade require-

ments in this section, or are permanently closed in accordance with WAC 173-360A-0810.

(1) Administration.

(a) The upgrades specified in this section must be performed by or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter.

(b) The upgrades specified in this section must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(c) Records of upgrades must be maintained until the UST system is permanently closed or undergoes a change-in-service.

(2) Upgrades.

(a) Corrosion protection of tanks and piping.

(i) Tanks and piping constructed of metal must be cathodically protected in accordance with a code of practice and meet the following requirements:

(A) The cathodic protection system must meet the requirements in WAC 173-360A-0310 (3)(b)(ii) and (iii); and

(B) Tanks more than ten years old must be assessed to ensure they are structurally sound and free of corrosion holes before a cathodic protection system is installed.

(ii) The following codes of practice may be used to meet the requirements in (a)(i) of this subsection:

(A) National Association of Corrosion Engineers International, Standard Practice 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection";

(B) National Association of Corrosion Engineers International, Standard Practice 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(C) National Leak Prevention Association, Standard 631, Chapter C, "Internal Inspection of Steel Tanks for Retrofit of Cathodic Protection"; or

(D) American Society for Testing and Materials, Standard G158, "Standard Guide for Three Methods of Assessing Buried Steel Tanks."

(b) **Spill and overfill prevention equipment.** UST systems filled by transfers of more than twenty-five gallons at one time must meet the spill and overfill prevention requirements in WAC 173-360A-0310 (7) and (8).

(c) **Release detection equipment.** Release detection equipment must meet the performance standards in Part 6 of this chapter.

(d) **Compatibility.** UST systems must meet the compatibility requirements in WAC 173-360A-0350.

NEW SECTION

WAC 173-360A-0340 Performance standards for partially exempt UST systems. Owners and operators shall ensure partially exempt UST systems identified in WAC 173-360A-0110 (2)(a)(i) through (iii) meet the performance standards of this section. This section does not apply to aboveground storage tanks associated with previously deferred UST systems and any partially exempt UST systems for which installation commenced on or before December 22, 1988.

(1) Performance standards. Partially exempt UST systems must:

(a) Prevent releases due to corrosion or structural failure for the operational life of the system;

(b) Be cathodically protected against corrosion, constructed of noncorrodible material, metal-clad with a noncorrodible material, determined by a corrosion expert to be located within a noncorrosive environment under WAC 173-360A-0310 (3)(c), or designed in a manner to prevent the release or threatened release of any regulated substance stored in the system; and

(c) Be constructed or lined with material that is compatible with the regulated substance stored in the system.

(2) Guidance. The performance standards in WAC 173-360A-0310 for new UST systems and the following codes of practice may be used as guidance for complying with this section:

(a) National Association of Corrosion Engineers International, Standard Practice 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection";

(b) National Association of Corrosion Engineers International, Standard Practice 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(c) American Petroleum Institute, Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; or

(d) Steel Tank Institute, Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems."

NEW SECTION

WAC 173-360A-0350 Compatibility requirements for UST systems. **(1) Performance standard for all UST systems.** Owners and operators shall ensure that all UST system components are made of or lined with materials that are compatible with the regulated substances stored in the UST system.

(2) Demonstrations for selected UST systems. Owners and operators of UST systems storing hazardous substances, regulated substances containing greater than ten percent ethanol or twenty percent biodiesel, or any other regulated substances identified by the department shall also comply with the requirements of this subsection.

(a) **Options.** Owners and operators shall either:

(i) Demonstrate compatibility of the UST system (including tanks, piping, containment sumps, pumping equipment, release detection equipment, spill prevention equipment, and overfill prevention equipment) by using one of the following options:

(A) Certification or listing of equipment or components by a nationally recognized, independent testing laboratory for use with the regulated substance stored; or

(B) Approval by the equipment or component manufacturer. The manufacturer's approval must be in writing, indicate an affirmative statement of compatibility, and specify

the hazardous substances or range of biofuel blends with which the equipment or component is compatible; or

(ii) Use another option determined by the department to be no less protective of human health and the environment than the options specified in (a)(i) of this subsection.

(b) **Reporting.** When changing the regulated substance stored in an UST system, owners and operators shall notify the department and report compliance with (a) of this subsection in accordance with WAC 173-360A-0410(1).

(c) **Recordkeeping.** Owners and operators shall maintain all records documenting compliance with (a) of this subsection until the UST system is permanently closed or undergoes a change-in-service.

(3) **Guidance.** The following code of practice may be used as guidance for complying with this section: American Petroleum Institute, Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Filling Stations."

PART 4

OPERATION AND MAINTENANCE

NEW SECTION

WAC 173-360A-0400 Transfer of regulated substances—Owners and operators. Owners and operators shall ensure delivery of regulated substances to UST systems and withdrawal of regulated substances from waste oil UST systems are authorized and do not result in spills or overfills.

(1) **Authority to deliver or deposit.** Without the prior written authorization of the department, owners and operators may not accept the delivery or deposit of regulated substances into an UST system if:

(a) The owners and operators do not have a valid and current license to operate the UST system (WAC 173-360A-0200(1));

(b) A valid facility compliance tag is not properly displayed at the UST facility where the UST system is located (RCW 90.76.050(2) and WAC 173-360A-0220(1) and 173-360A-0280(4));

(c) A red tag is attached to the fill pipe of the UST system (RCW 90.76.050(2) and WAC 173-360A-0280(4)); or

(d) A release from the UST system has been confirmed and the system has not been repaired.

(2) **Authority to withdraw waste oil.** Without the prior written authorization of the department, owners and operators may not allow the withdrawal of regulated substances from a waste oil UST system if:

(a) The owners and operators do not have a valid and current license to operate the UST system (WAC 173-360A-0200(1));

(b) A valid facility compliance tag is not properly displayed at the UST facility where the UST system is located (WAC 173-360A-0220(1) and 173-360A-0280(5)); or

(c) A red tag is attached to the fill pipe of the UST system (WAC 173-360A-0280(5)).

(3) **Spill and overfill control.** To prevent spills and overfills during the transfer of regulated substances into an UST system, owners and operators shall ensure that:

(a) Before the transfer, the volume available in a tank is greater than the volume of regulated substances to be transferred into the tank;

(b) During the transfer, the transfer operation is monitored constantly; and

(c) The transfer is performed in accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(i) National Fire Protection Association, Standard 385, "Standard for Tank Vehicles for Flammable and Combustible Liquids";

(ii) American Petroleum Institute, Recommended Practice 1007, "Loading and Unloading of MC 306/DOT 406 Cargo Tank Motor Vehicles"; or

(iii) American Petroleum Institute, Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets."

(4) **Reporting spills and overfills.** Owners and operators shall report, investigate, and clean up any spill or overfill of regulated substances in accordance with WAC 173-360A-0740.

NEW SECTION

WAC 173-360A-0405 Transfer of regulated substances—Product deliverers and waste oil collectors. Product deliverers shall ensure delivery of regulated substances to UST systems are authorized and do not result in spills or overfills. Waste oil collectors shall ensure withdrawals of regulated substances from waste oil UST systems are authorized.

(1) **Authority to deliver or deposit.** Without the prior written authorization of the department, a product deliverer may not deliver or deposit regulated substances into an UST system if:

(a) A valid facility compliance tag is not properly displayed at the UST facility where the UST system is located (RCW 90.76.050(1) and WAC 173-360A-0220(1) and 173-360A-0280(4));

(b) A red tag is attached to the fill pipe of the UST system (RCW 90.76.050(1) and WAC 173-360A-0280(4)); or

(c) The product deliverer knows that a release from the UST system has been confirmed and the UST system has not been repaired, regardless of whether a facility compliance tag is properly displayed at the UST facility.

(2) **Authority to withdraw waste oil.** Without the prior written authorization of the department, persons may not withdraw regulated substances from a waste oil UST system if:

(a) A valid facility compliance tag is not properly displayed at the UST facility where the UST system is located (WAC 173-360A-0220(1) and 173-360A-0280(5)); or

(b) A red tag is attached to the fill pipe of the UST system (WAC 173-360A-0280(5)).

(3) **Spill and overfill control.** To prevent spills and overfills during the transfer of regulated substances into an UST system, product deliverers shall comply with the requirements in WAC 173-360A-0400(3).

(4) **Reporting spills and overfills.** Product deliverers and waste oil collectors shall report any spill or overfill of

regulated substances, including into spill prevention equipment, immediately to the owner or operator.

NEW SECTION

WAC 173-360A-0410 Changes in regulated substances. Owners and operators shall notify the department of any changes in the regulated substances stored in an UST system and document compatibility in accordance with the requirements of this section.

(1) When changing to a hazardous substance, a regulated substance containing greater than ten percent ethanol or twenty percent biodiesel, or any other regulated substance identified by the department, owners and operators shall notify the department and report compliance with the compatibility requirements in WAC 173-360A-0350(2) at least thirty days before making the change using the applicable form provided by the department.

(2) When changing to any other regulated substance, owners and operators shall notify the department within thirty days after making the change using the applicable form provided by the department.

NEW SECTION

WAC 173-360A-0420 Operation and maintenance walkthrough inspections. Owners and operators shall comply with the walkthrough inspection requirements of this section to ensure UST systems are properly operated and maintained.

(1) **Inspections.** Operation and maintenance walkthrough inspections must be performed in accordance with the following requirements or a code of practice that provides for comparable inspections. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 900, "Recommended Practices for the Inspection and Maintenance of UST Systems."

(a) **Thirty-day inspections.** Spill prevention equipment and release detection equipment must be inspected at least every thirty days. However, for UST systems receiving deliveries of regulated substances less frequently than every thirty days, spill prevention equipment only needs to be inspected prior to each delivery.

(i) **Spill prevention equipment.** Inspections of spill prevention equipment must include:

(A) Visually checking the spill prevention equipment for damage;

(B) Removing any liquid or debris from the spill prevention equipment;

(C) Checking for and removing obstructions in the fill pipe;

(D) Checking the fill cap to make sure it is securely on the fill pipe; and

(E) For double-walled spill prevention equipment with interstitial monitoring, checking for a leak in the interstitial area.

(ii) **Release detection equipment.** Inspections of release detection equipment must include:

(A) Checking to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present; and

(B) Ensuring records of release detection testing are reviewed and current and the results are conclusive.

(b) **Annual inspections.** Containment sumps and hand-held release detection equipment must be inspected at least annually.

(i) **Containment sumps.** Inspections of containment sumps must include:

(A) Visually checking the containment sumps for damage, leaks to the containment area, or releases to the environment;

(B) Removing any liquid or debris from the containment sumps; and

(C) For double-walled containment sumps with interstitial monitoring, checking for a leak in the interstitial area; and

(ii) **Hand-held release detection equipment.** Inspections of hand-held release detection equipment must confirm the operability and serviceability of devices such as tank gauge sticks and groundwater bailers.

(c) **Additional inspections for airport hydrant systems.** For airport hydrant systems, hydrant pits and hydrant piping vaults must also be inspected at least every thirty days, if confined spaced entry is not required under 29 C.F.R. Part 1910 according to the Occupational Safety and Health Administration, or at least annually if confined spaced entry is required.

(i) **Hydrant pits.** Inspections of hydrant pits must include:

(A) Visually checking for any damage;

(B) Removing any liquid or debris; and

(C) Checking for any leaks.

(ii) **Hydrant piping vaults.** Inspections of hydrant piping vaults must include checking for any hydrant piping leaks.

(2) **Repairs.** Any UST system component that is not operating properly must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

(3) **Documentation.** Operation and maintenance walkthrough inspections must be documented in a checklist provided by the department or the code of practice used to perform the inspection. The following information must be included in the checklist:

(a) A list of each UST system component inspected;

(b) For each component inspected, whether the component needed action taken to correct an issue; and

(c) For each component needing action taken to correct an issue, a description of the actions taken.

(4) **Recordkeeping.** Records of operation and maintenance walkthrough inspections must be maintained for at least three years. If spill prevention equipment is checked less frequently than every thirty days due to infrequent deliveries, delivery records must also be maintained in accordance with this requirement.

(5) **Compliance dates.** The operation and maintenance walkthrough inspections required in this section must begin by the following dates:

(a) For UST systems installed after (effective date of rule), upon installation; and

(b) For UST systems installed on or before (effective date of rule), by (one year after effective date of rule).

NEW SECTION

WAC 173-360A-0430 Operation and maintenance of corrosion protection. Owners and operators of UST systems with corrosion protection shall comply with the requirements of this section to ensure the equipment is operating properly and will prevent releases to the environment due to corrosion until the UST system is permanently closed or undergoes a change-in-service.

(1) **Corrosion protection systems.** All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

(2) **Testing of cathodic protection systems.** Upon installation or repair, between one and six months after installation or repair, and every three years thereafter, cathodic protection systems must be tested as follows to ensure they are operating properly.

(a) **Performance.** Cathodic protection tests must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) In accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(A) National Association of Corrosion Engineers International, Test Method TM0101, "Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems";

(B) National Association of Corrosion Engineers International, Test Method TM0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems";

(C) Steel Tank Institute, Recommended Practice R051, "Cathodic Protection Testing Procedures for STI-P3R USTs";

(D) National Association of Corrosion Engineers International, Standard Practice 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

(E) National Association of Corrosion Engineers International, Standard Practice 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

(b) **Repairs.** If a cathodic protection system is not operating properly:

(i) A corrosion expert must be notified within twenty-four hours; and

(ii) The cathodic protection system must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300, as specified by the corrosion expert.

(c) **Reporting.** Cathodic protection tests must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(d) **Recordkeeping.** Records of cathodic protection tests must be maintained for at least six years.

(3) **Inspections of impressed current cathodic protection systems.** At least every sixty days, impressed current

cathodic protection systems must be inspected to ensure the rectifier is on and the equipment is operating properly.

(a) **Performance.** Rectifier inspections must include checking whether the rectifier is turned on and whether the voltage and amperage readings are within the ranges specified during the last cathodic protection test.

(b) **Repairs.** If a rectifier is not functioning or the voltage or amperage readings are not within the range specified for the cathodic protection system:

(i) A corrosion expert must be notified within twenty-four hours; and

(ii) The cathodic protection system must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300, as specified by the corrosion expert.

(c) **Documentation.** Rectifier inspections must be documented on the checklist provided by the department or on another record that includes the same information.

(d) **Recordkeeping.** Records of rectifier inspections must be maintained for at least three years.

NEW SECTION

WAC 173-360A-0440 Operation and maintenance of internal linings. Owners and operators of UST systems with internal linings used to meet the upgrade requirements in WAC 173-360A-0320 (2)(a)(i) shall comply with the requirements of this section.

(1) **Inspections.** Within ten years after lining and every five years thereafter, lined tanks must be internally inspected to determine whether the tanks remain structurally sound and the linings are still performing in accordance with the original design specifications. Internal inspections must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(i) American Petroleum Institute, Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(ii) National Leak Prevention Association, Standard 631, Chapter B, "Future Internal Inspection Requirements for Lined Tanks"; or

(iii) Ken Wilcox Associates, Recommended Practice, "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera."

(2) **Repairs.**

(a) Following invasive internal inspections, tanks must be repaired and tightness tested in accordance with WAC 173-360A-0490.

(b) Lined tanks failing an internal inspection must be repaired and tightness tested in accordance with WAC 173-360A-0490. Lined tanks that cannot be repaired in accordance with a code of practice must be permanently closed in accordance with WAC 173-360A-0810.

(3) **Reporting.** Internal inspections of lined tanks must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(4) Recordkeeping. Records of internal inspections of lined tanks must be maintained until the UST system is permanently closed or undergoes a change-in-service.

NEW SECTION

WAC 173-360A-0450 Operation and maintenance of containment sums used for interstitial monitoring of piping. Owners and operators of UST systems with containment sums used for interstitial monitoring of piping shall comply with the requirements of this section and the walkthrough inspection requirements in WAC 173-360A-0420 to ensure the equipment is operating properly and will prevent releases to the environment.

(1) Periodic monitoring or testing. Containment sums used for interstitial monitoring of piping must meet one of the following requirements:

(a) The containment sump is double-walled and the integrity of both walls is monitored at least annually as part of the walkthrough inspection in WAC 173-360A-0420 (1)(b) (i)(C). If monitoring is discontinued, the containment sump must be tightness tested in accordance with (b) of this subsection within thirty days; or

(b) The containment sump is tightness tested at least every three years to ensure it is liquid tight. The tightness test must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) Using a vacuum, pressure, or liquid test (including a low level liquid test) performed in accordance with:

(A) The manufacturer's instructions;

(B) A code of practice. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities"; or

(C) Requirements determined by the department to be no less protective of human health and the environment.

(2) Repairs. Containment sums that are not operating properly must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

(3) Reporting. Tightness tests of containment sums must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(4) Recordkeeping.

(a) Records of periodic monitoring of containment sums must be maintained for at least three years. The records must demonstrate that the sums are double-walled and the integrity of both walls is periodically monitored.

(b) Records of tightness tests of containment sums must be maintained for at least six years.

(5) Compliance dates. The periodic monitoring or tightness testing of containment sums required under this section must begin by the following dates:

(a) For UST systems installed after (effective date of rule), upon installation; and

(b) For UST systems installed on or before (effective date of rule):

(i) By (two years after effective date of rule), if the identification number on the facility compliance tag for the UST facility where the system is located is an even number; and

(ii) By (three years after effective date of rule), if the identification number on the facility compliance tag for the UST facility where the system is located is an odd number or if the UST facility does not have a facility compliance tag.

NEW SECTION

WAC 173-360A-0460 Operation and maintenance of spill prevention equipment. Owners and operators of UST systems with spill prevention equipment shall comply with the requirements of this section and the walkthrough inspection requirements in WAC 173-360A-0420 to ensure the equipment is operating properly and will prevent releases to the environment.

(1) Periodic monitoring or testing. Spill prevention equipment must meet one of the following requirements:

(a) The equipment is double-walled and the integrity of both walls is monitored at least every thirty days, or prior to delivery of regulated substances if less frequent, as part of the walkthrough inspection in WAC 173-360A-0420 (1)(a) (i)(E). If monitoring is discontinued, the equipment must be tightness tested in accordance with (b) of this subsection within thirty days; or

(b) The equipment is tightness tested at least every three years. The tightness test must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) Using a vacuum, pressure, or liquid test performed in accordance with manufacturer's instructions or a code of practice. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."

(2) Repairs. Spill prevention equipment that is not operating properly must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

(3) Reporting. Tightness tests of spill prevention equipment must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(4) Recordkeeping.

(a) Records of periodic monitoring of spill prevention equipment must be maintained for at least three years. The records must demonstrate that the equipment is double-walled and the integrity of both walls is periodically monitored.

(b) Records of tightness tests of spill prevention equipment must be maintained for at least six years.

(5) Compliance dates. The periodic monitoring or tightness testing of spill prevention equipment required under this section must begin by the following dates:

(a) For UST systems installed after (effective date of rule), upon installation; and

(b) For UST systems installed on or before (effective date of rule):

(i) By (two years after effective date of rule), if the identification number on the facility compliance tag for the UST facility where the system is located is an even number; and

(ii) By (three years after effective date of rule), if the identification number on the facility compliance tag for the UST facility where the system is located is an odd number or if the UST facility does not have a facility compliance tag.

NEW SECTION

WAC 173-360A-0470 Operation and maintenance of overfill prevention equipment. Owners and operators of UST systems with overfill prevention equipment shall comply with the requirements of this section to ensure the equipment is operating properly and will prevent releases to the environment.

(1) **Inspections.** Overfill prevention equipment must be inspected at least once every three years. At a minimum, the inspection must ensure that the equipment is set to activate at the applicable level specified in WAC 173-360A-0310(8) and will activate when regulated substances reach that level. Inspections must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions or a code of practice. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."

(2) **Repairs.** Overfill prevention equipment that is not operating properly must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300. Flow restrictors used in vent lines that are not operating properly must be replaced with another type of overfill prevention equipment (WAC 173-360A-0310(8)(c)).

(3) **Reporting.** Overfill prevention equipment inspections must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(4) **Recordkeeping.** Records of overfill prevention equipment inspections must be maintained for at least six years.

(5) **Compliance dates.** The inspections of overfill prevention equipment required under this section must begin by the following dates:

(a) For UST systems installed after (effective date of rule), upon installation; and

(b) For UST systems installed on or before (effective date of rule):

(i) By (two years after effective date of rule), if the identification number on the facility compliance tag for the UST facility where the system is located is an even number; and

(ii) By (three years after effective date of rule), if the identification number on the facility compliance tag for the

UST facility where the system is located is an odd number or if the UST facility does not have a facility compliance tag.

NEW SECTION

WAC 173-360A-0480 Operation and maintenance of release detection equipment. Owners and operators shall operate and maintain release detection equipment in accordance with the requirements of this section and the walk-through inspection requirements in WAC 173-360A-0420 to ensure the equipment is operating properly and will detect leaks from tanks and piping.

(1) **General.** Release detection equipment must be operated and maintained in accordance with the manufacturer's instructions or a code of practice. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."

(2) **Testing.** Release detection equipment that is electronic or mechanical must be tested at least annually.

(a) **Performance.** Tests of release detection equipment must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) In accordance with the requirements in subsection (1) of this section.

(b) **Minimum.** Tests of release detection equipment must include the following, as applicable to the UST system:

(i) Automatic tank gauges and other controllers: Test proper operation of alarms, verify system configuration, and test battery backups;

(ii) Probes and sensors: Inspect for residual buildup, ensure floats move freely, ensure shafts are not damaged, ensure cables are free of kinks and breaks, and test alarm operability and communication with controller;

(iii) Automatic line leak detectors: Test operation to determine whether the detectors meet the performance standards in WAC 173-360A-0640 by simulating a leak from the entire piping run being monitored;

(iv) Vacuum pumps and pressure gauges: Ensure proper communication with sensors and controller; and

(v) Hand-held electronic sampling equipment associated with groundwater and vapor monitoring: Ensure proper operation.

(3) **Repairs.** Release detection equipment that is not operating properly must be recalibrated or otherwise repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

(4) **Reporting.** Tests of release detection equipment must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider. The following must be documented in the checklist:

(a) List of each component tested;

(b) For each component tested, whether the component needed action to correct an issue; and

(c) For each component needing action to correct an issue, a description of the actions taken.

(5) Recordkeeping. Records of operation and maintenance of release detection equipment, including any tests required under this section, must be maintained for at least three years. Any schedules of required calibration and maintenance provided by the equipment manufacturer must be maintained for as long as the equipment is used.

(6) Compliance date. The testing of release detection equipment required under this section must begin by the following dates:

(a) For UST systems installed after (effective date of rule), upon installation; and

(b) For UST systems installed on or before (effective date of rule):

(i) By (two years after effective date of rule), if the identification number on the facility compliance tag for the UST facility where the system is located is an even number; and

(ii) By (three years after effective date of rule), if the identification number on the facility compliance tag for the UST facility where the system is located is an odd number or if the UST facility does not have a facility compliance tag.

NEW SECTION

WAC 173-360A-0490 Repairs of UST system components. Owners and operators shall ensure that UST system components that do not meet applicable performance standards or upgrade requirements or that are not operating properly are repaired or replaced. Owners and operators shall ensure that repairs are performed in accordance with the requirements of this section and will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances.

(1) Performance of repairs. Repairs must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions or a code of practice. The following codes of practice may be used to meet this requirement:

(i) National Fire Protection Association, Standard 30, "Flammable and Combustible Liquids Code";

(ii) American Petroleum Institute, Recommended Practice 2200, "Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines";

(iii) American Petroleum Institute, Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(iv) National Fire Protection Association, Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair";

(v) National Leak Prevention Association, Standard 631, Chapter A, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks";

(vi) Steel Tank Institute, Recommended Practice R972, "Recommended Practice for the Addition of Supplemental Anodes to STI-P3R Tanks";

(vii) National Association of Corrosion Engineers International, Standard Practice 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

(viii) Fiberglass Tank and Pipe Institute, Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks."

(2) Standards for repairs. Repaired UST system components must meet the applicable performance standards or upgrade requirements in Part 3 of this chapter.

(3) Replacement of metal piping and fittings. Metal piping and fittings that have released regulated substances due to corrosion or other damage must be replaced.

(4) Tests and inspections after repairs. Repaired UST system components must be tested or inspected after the repair as specified in this subsection.

(a) Tanks and piping. Repaired tanks and piping must be tightness tested as specified in WAC 173-360A-0635 and 173-360A-0650 within thirty days of the repair unless another test method is used that is determined by the department to be no less protective of human health and the environment. Except as provided under (b) of this subsection, cathodic protection systems of repaired tanks or piping must be tested as specified in WAC 173-360A-0430(2) within six months of the repair;

(b) Cathodic protection systems. Repaired cathodic protection systems must be tested as specified in WAC 173-360A-0430(2) at the time of the repair and between one and six months after the repair.

(c) Secondary containment areas of tanks and piping. Repaired secondary containment areas of tanks and piping used for interstitial monitoring must be tightness tested as follows within thirty days of the repair.

(i) Performance. Tightness tests of secondary containment areas of tanks and piping must be performed:

(A) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(B) In accordance with the manufacturer's instructions or a code of practice. The following codes of practice may be used to meet this requirement:

(I) Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks";

(II) Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple-Wall Tanks with Dry Annular Space"; or

(III) Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".

(ii) Reporting. Tightness tests of secondary containment areas of tanks and piping must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(iii) Recordkeeping. Records of tightness tests of secondary containment areas of tanks and piping must be maintained for at least three years.

(d) Containment sumps used for interstitial monitoring. Repaired containment sumps used for interstitial monitoring of piping must be tightness tested as specified in WAC 173-360A-0450 within thirty days of the repair.

(e) **Spill prevention equipment.** Repaired spill prevention equipment must be tightness tested as specified in WAC 173-360A-0460 within thirty days of the repair.

(f) **Overfill prevention equipment.** Repaired overfill prevention equipment must be inspected as specified in WAC 173-360A-0470 within thirty days of the repair.

(g) **Release detection equipment.** Repaired electronic or mechanical release detection equipment must be tested as specified in WAC 173-360A-0480 within thirty days of the repair.

(5) **Reporting repairs.** Repairs must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(6) **Recordkeeping.** Records of repairs must be maintained until the UST system is permanently closed or undergoes a change-in-service. Records of tests and inspections of repaired UST system components must be maintained in accordance with the applicable requirements of this chapter.

PART 5

OPERATOR TRAINING

NEW SECTION

WAC 173-360A-0500 Purpose and applicability.

(1) This part establishes a mandatory operator training program for three distinct classes of individuals who operate and maintain UST systems. The program is designed to prevent and mitigate releases from UST systems by ensuring that those individuals know how to properly operate and maintain those systems and respond to any spills, overfills, leaks, or releases from those systems.

(2) Owners and operators of an UST system shall continuously comply with the requirements of this part from installation until permanent closure or change-in-service of the UST system, including during any period of temporary closure.

NEW SECTION

WAC 173-360A-0510 Designation of Class A, Class B, and Class C operators.

UST system owners and operators shall designate individuals as Class A, Class B, and Class C operators in accordance with the requirements of this section.

(1) At least one Class A and one Class B operator must be designated for each UST system or group of systems at a UST facility.

(2) Each individual who meets the definition of Class C operator at a UST facility must be designated as a Class C operator.

(3) Separate individuals may be designated for each operator class or an individual may be designated to more than one operator class.

NEW SECTION

WAC 173-360A-0520 Timing of operator training.

UST system owners and operators shall ensure that each

Class A, Class B, and Class C operator is trained in accordance with the requirements in WAC 173-360A-0530 by the dates specified in this section.

(1) Class A and Class B operators must be trained within sixty days of assuming duties of the operator class.

(2) Class C operators must be trained before assuming duties of the operator class.

NEW SECTION

WAC 173-360A-0530 Requirements for operator training.

UST system owners and operators shall ensure that each Class A, Class B, and Class C operator is trained in accordance with the requirements of this section. Any individual designated for more than one operator class must successfully complete the training required for each operator class that the individual is designated. The training required under this section for Class A and Class B operators is the same.

(1) **Class A and Class B operators.** Each individual designated as a Class A and/or a Class B operator must successfully complete a classroom, computer, or field-based training program or examination that:

(a) Is developed and administered by the department, an UST system owner or operator approved by the department, or an independent third party approved by the department;

(b) Covers the following subject areas and associated requirements in this chapter. Training programs and examinations may be facility-specific:

(i) Administrative requirements, including:

(A) Licensing and fees;

(B) Facility compliance tags;

(C) Authority to accept product delivery;

(D) Financial responsibility; and

(E) Reporting and recordkeeping;

(ii) Certification and use of service providers;

(iii) Compliance inspections and enforcement;

(iv) Overview of UST systems and UST system components;

(v) Product and equipment compatibility and demonstration;

(vi) Installation and repair requirements;

(vii) Spill and overfill prevention;

(viii) Release detection;

(ix) Corrosion protection and internal lining;

(x) Secondary and under-dispenser containment;

(xi) Operation and maintenance requirements, including inspections and testing;

(xii) Release reporting and confirmation requirements;

(xiii) Overview of site assessment requirements;

(xiv) Overview of cleanup requirements for releases, including the applicability of chapter 173-340 WAC;

(xv) Temporary closure, permanent closure, and change-in-service requirements;

(xvi) Operator training requirements, including training of Class C operators; and

(xvii) Any other subject areas specified by the department; and

(c) Includes an evaluation of operator knowledge, such as testing or practical examination, that reasonably deter-

mines whether the operator has the necessary knowledge and skills to meet the responsibilities of the class.

(2) **Class C operators.** Each Class C operator must successfully complete a classroom, computer, or field-based training program that:

(a) Is developed and administered by the department, a trained Class A or Class B operator, or an independent third party approved by the department;

(b) Provides training on how to respond to emergencies and alarms, including:

- (i) Locating emergency response equipment;
- (ii) Operating any emergency shut-off systems;
- (iii) Identifying and responding to any alarms; and
- (iv) Responding to and notifying appropriate authorities of any spills or releases; and

(c) Includes an evaluation of operator knowledge, such as testing or practical examination, that reasonably determines whether the operator has the necessary knowledge and skills to meet the responsibilities of the class.

(3) **Reciprocity for out-of-state training.** Class A and Class B operators previously designated in another state or at a tribal UST facility shall be deemed to meet the training requirements in subsection (1) of this section if:

(a) They successfully completed a training program or examination meeting the requirements of that state or 40 C.F.R. Part 280, as applicable; and

(b) They possess the training records required under WAC 173-360A-0560(2) and the records identify the state where they were designated and trained.

(4) **Acceptance of prior in-state training.** Except as provided under WAC 173-360A-0540, retraining is not required when the training requirements in this section are changed.

(5) **Revision of existing training programs and examinations for Class A and Class B operators.** Training programs and examinations for Class A and/or Class B operators approved by the department on or before (effective date of the rule) must be revised to reflect the changes to the training requirements in subsection (1)(b) of this section. Revised training programs and examinations must be submitted to the department for approval by (six months after effective date of the rule). The department will approve or reject revised training programs and examinations, and provide written notice of its decision and reasons for any rejection.

NEW SECTION

WAC 173-360A-0540 Retraining requirements for Class A and Class B operators. UST system owners and operators shall ensure that Class A and Class B operators are retrained, as applicable, in accordance with the requirements of this section.

(1) **Applicability.** If the department determines the owners and operators of an UST system are not in compliance with the requirements of this chapter, the department may require the Class A and Class B operators of that system to be retrained in accordance with subsection (2) of this section.

(2) **Requirements.** Within sixty days of receipt of the department's determination of noncompliance, Class A and Class B operators requiring retraining must successfully

complete a training program or comparable examination meeting the requirements in WAC 173-360A-0530(1) and submit a copy of the certificate of completion to the department. At a minimum, the retraining must cover the areas determined to be out of compliance.

NEW SECTION

WAC 173-360A-0545 Operation and maintenance plans. UST system owners and operators shall ensure that operation and maintenance plans are developed and maintained, as applicable, in accordance with the requirements of this section.

(1) **Applicability.** If the department determines the owners and operators of an UST system are not in compliance with the requirements of this chapter, the department may require the owners and operators to develop an operation and maintenance plan for each UST system at the UST facility where the noncompliant system is located. The department may require the development of such a plan in place of or in addition to any retraining of Class A or Class B operators required under WAC 173-360A-0540.

(2) **Development.** Operation and maintenance plans for UST systems must be developed and a copy submitted to the department within sixty days of receipt of the department's determination of noncompliance.

(3) **Updates.** The operation and maintenance plan for an UST system must be updated within sixty days of any modification of the system that changes how the system must be operated and maintained under this chapter.

(4) **Content.** At a minimum, the operation and maintenance plan for an UST system must include the actions required under this chapter to operate and maintain the system, including as applicable:

- (a) Release detection;
- (b) Spill and overfill prevention;
- (c) Corrosion protection;
- (d) Internal lining; and
- (e) Containment sumps.

(5) **Recordkeeping.** Operation and maintenance plans for UST systems must be maintained until the systems are permanently closed or undergo a change-in-service.

NEW SECTION

WAC 173-360A-0550 Emergency response requirements. (1) **Presence of operators.** While a UST facility is manned, UST system owners and operators shall ensure at least one of the individuals manning the facility is a properly trained Class A, Class B, or Class C operator.

(2) **Signage.** At each UST facility, UST system owners and operators shall post and maintain signage providing emergency response information. The signage must:

(a) Be posted in prominent areas of the facility that are easily visible to individuals who dispense or deliver regulated substances;

(b) Identify the location of fire extinguishers and any emergency shut-off devices at the facility; and

(c) Provide instructions on what to do in case of an emergency at the facility. At a minimum, the instructions must include the following or equivalent wording:

(Name and address of facility)

IN CASE OF FIRE, SPILL OR RELEASE

(Insert if applicable: Use emergency shut off)

Call the fire department: (911 or local fire department telephone number)

Call the facility operator: (24-hour telephone number)

NEW SECTION

WAC 173-360A-0560 Documentation and record-keeping. UST system owners and operators shall maintain records documenting all currently designated Class A, Class B, and Class C operators at a UST facility and the training received by those operators.

(1) **Designated operators.** Records documenting Class A, Class B, and Class C operators at a UST facility must include the following information:

- (a) The facility's name, address, and compliance tag number; and
- (b) For each individual designated at the facility:
 - (i) The name of the individual;
 - (ii) The UST systems and operator classes to which the individual has been designated;
 - (iii) The date the individual assumed the duties of each operator class; and
 - (iv) The date the individual completed initial training and any required retraining for each operator class.

(2) **Training of designated operators.** Records documenting the initial training and any required retraining of Class A, Class B, and Class C operators must include a certificate of completion. Certificates must include the following information:

- (a) The name of the trainee;
- (b) The date the trainee completed the training;
- (c) The operator class or classes covered by the training;
- (d) The name of the company providing the training; and
- (e) For classroom and field-based training, the printed name and signature of the trainer or examiner.

PART 6

RELEASE DETECTION

NEW SECTION

WAC 173-360A-0600 General release detection requirements. Owners and operators shall monitor tanks and underground piping for leaks in accordance with the requirements of this part. This section specifies general release detection requirements. WAC 173-360A-0610 and 173-360A-0615 identify allowed release detection methods for monitoring tanks and piping. WAC 173-360A-0620 through 173-360A-0675 specify requirements for each release detection method.

(1) **Applicability.** The following tanks and underground piping must be monitored for leaks in accordance with this part:

- (a) Any portion of a tank that routinely contains regulated substances; and
- (b) Any underground piping that routinely contains regulated substances. However, underground piping conveying

regulated substances under suction does not need to be monitored for leaks if the piping is designed and constructed to meet the following standards:

(i) The below-grade piping operates at less than atmospheric pressure;

(ii) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(iii) Only one check valve is included in each suction line;

(iv) The check valve is located directly below and as close as practical to the suction pump; and

(v) A method is provided that allows compliance with (b)(i) through (iv) of this subsection to be readily determined.

(2) **Closure of UST systems.** Any UST system that cannot be monitored for leaks in accordance with the requirements of this part must be closed in accordance with Part 8 of this chapter.

(3) **Release detection methods.** Tanks and underground piping must be monitored for leaks using one of the applicable methods, or combination of methods, of release detection specified in WAC 173-360A-0610 and 173-360A-0615. Results from periodic release detection must be conclusive.

(4) **Notification of changes in methods.** Within thirty days after any change in release detection methods used, owners and operators shall notify the department in writing.

(5) **Performance standards for methods.** Release detection methods must be able to meet:

(a) The performance standards specified for the method in this part, with any performance claims and their manner of determination described in writing by the manufacturer, vendor, or installer; and

(b) The compatibility requirements in WAC 173-360A-0350.

(6) **Certification of methods or equipment.** Except for inventory control (WAC 173-360A-0620) and weekly manual tank gauging (WAC 173-360A-0625), the methods or equipment used to perform release detection must be certified in writing by the manufacturer or vendor or an independent third party as capable of meeting the performance standards specified for the release detection method in this part using a test procedure:

(a) Developed by the U.S. Environmental Protection Agency;

(b) Developed by a nationally or internationally recognized association or independent testing laboratory; or

(c) Deemed equivalent by a nationally or internationally recognized association or independent testing laboratory to a test procedure developed by the U.S. Environmental Protection Agency.

(7) **Performance of release detection.** Release detection must be performed in accordance with:

(a) Any requirements specified for the method in this part;

(b) Any instructions specified by the equipment manufacturer; and

(c) Any conditions or limitations specified in the certifications required under subsection (6) of this section, if applicable.

(8) **Suspected releases.** When the results of release detection under this part indicate a release may have occurred, the suspected release must be reported and investigated in accordance with Part 7 of this chapter. The establishment of leak indication thresholds is a means of setting a standard for the equipment or method used. It is not intended to imply that actual leak rates or quantities less than the thresholds are allowable. No release is acceptable, and any indication that a release may have occurred should be reported and investigated in accordance with Part 7 of this chapter.

(9) **Recordkeeping.** Records of release detection must document compliance with this part, including the following:

(a) Any certifications of release detection methods or equipment required under this part. Certifications must be maintained for as long as the method or equipment is used;

(b) Any site evaluations required under WAC 173-360A-0660 or 173-360A-0665 for using vapor monitoring or groundwater monitoring as a release detection method. Site evaluations must be maintained for as long as the method is used; and

(c) The performance of release detection required under this part, including the results of all monitoring, testing, and sampling.

(i) For tank tightness testing (WAC 173-360A-0635), line tightness testing (WAC 173-360A-0650), and vapor monitoring using a tracer compound in accordance with WAC 173-360A-0610 (3)(d) or 173-360A-0615 (3)(b), at least the last two test results must be maintained.

(ii) For all other release detection methods, results must be maintained for at least three years.

NEW SECTION

WAC 173-360A-0610 Release detection methods for tanks. Owners and operators shall monitor tanks for leaks using the methods, or combination of methods, of release detection specified in this section.

(1) **Tanks requiring secondary containment.** Tanks requiring secondary containment under WAC 173-360A-0310 (4)(a) must be monitored for leaks at least every thirty days using interstitial monitoring (WAC 173-360A-0655).

(2) **Tanks not requiring secondary containment.** Except as provided for previously deferred UST systems under subsection (3) of this section, tanks not requiring secondary containment under WAC 173-360A-0310 (4)(a) must be monitored for leaks at least every thirty days (except as otherwise provided) using one of the following methods, or combination of methods, of release detection:

(a) Combination of inventory control (WAC 173-360A-0620) and tank tightness testing (WAC 173-360A-0635). Tank tightness testing must be performed at least every five years. This combination of methods may be used only if the tank has been installed for less than ten years;

(b) Combination of weekly manual tank gauging (WAC 173-360A-0625) and tank tightness testing (WAC 173-360A-0635). Tank tightness testing must be performed at least every five years. This combination of methods may be used only if:

(i) The tank has been installed for less than ten years; and

(ii) The tank's capacity is less than or equal to two thousand gallons;

(c) Weekly manual tank gauging (WAC 173-360A-0625). This method may be used as the sole method of release detection only if:

(i) The tank's capacity is less than or equal to five hundred fifty gallons; or

(ii) The tank's capacity is five hundred fifty-one gallons to one thousand gallons and the tank's diameter is either sixty-four inches or forty-eight inches;

(d) Automatic tank gauging (WAC 173-360A-0630);

(e) Interstitial monitoring (WAC 173-360A-0655). This method may be used only if the tank is secondarily contained and meets the performance standards in WAC 173-360A-0310 (4)(b);

(f) Vapor monitoring (WAC 173-360A-0660);

(g) Groundwater monitoring (WAC 173-360A-0665);

(h) Statistical inventory reconciliation (WAC 173-360A-0670); or

(i) Other release detection methods (WAC 173-360A-0675).

(3) **Additional methods for certain previously deferred UST systems.** Field-constructed tanks not requiring secondary containment under WAC 173-360A-0310 (4)(a) with a capacity greater than fifty thousand gallons must be monitored for leaks in accordance with subsection (2) of this section or using one of the following methods, or combination of methods, of release detection:

(a) Tank tightness testing (WAC 173-360A-0635) performed at least annually, except the method must be able to detect a 0.5 gallon per hour leak rate;

(b) Combination of automatic tank gauging (WAC 173-360A-0630) performed at least every thirty days, except the method must be able to detect a one gallon per hour leak rate, and tank tightness testing (WAC 173-360A-0635) performed at least every three years, except the method must be able to detect a 0.2 gallon per hour leak rate;

(c) Combination of automatic tank gauging (WAC 173-360A-0630) performed at least every thirty days, except the method must be able to detect a two gallons per hour leak rate, and tank tightness testing (WAC 173-360A-0635) performed at least every two years, except the method must be able to detect a 0.2 gallon per hour leak rate;

(d) Vapor monitoring (WAC 173-360A-0660) performed at least every two years, except the method must use a tracer compound and be able to detect a 0.1 gallon per hour leak rate;

(e) Combination of inventory control (WAC 173-360A-0620) performed at least every thirty days, except the method must be able to detect a leak of at least 0.5 percent of flow-through and be performed in accordance with Department of Defense Instruction 4140.25, Air Transport Association Airport Fuel Facility Operations and Maintenance Guidance Manual, or equivalent procedures, and either:

(i) Tank tightness testing (WAC 173-360A-0635) performed at least every two years, except the method must be able to detect a 0.5 gallon per hour leak rate;

(ii) Vapor monitoring (WAC 173-360A-0660) performed at least every thirty days; or

(iii) Groundwater monitoring (WAC 173-360A-0665) performed at least every thirty days; or

(f) Other release detection methods (WAC 173-360A-0675), except owners and operators must demonstrate the method can detect a leak as effectively as any of the methods allowed in (a) through (e) of this subsection and the department must approve the use of the method. In comparing methods, the department will consider the size of release that can be detected and the frequency and reliability of detection.

NEW SECTION

WAC 173-360A-0615 Release detection methods for piping. Owners and operators shall monitor underground piping for leaks using the methods, or combination of methods, of release detection specified in this section.

(1) **Piping requiring secondary containment.** Underground piping requiring secondary containment under WAC 173-360A-0310 (5)(a) must be monitored for leaks as follows.

(a) **Pressurized piping.** Underground piping conveying regulated substances under pressure must be equipped with an automatic line leak detector (WAC 173-360A-0640) and monitored for leaks at least every thirty days using interstitial monitoring (WAC 173-360A-0655).

(b) **Suction piping.** Underground piping conveying regulated substances under suction, except as provided under WAC 173-360A-0600 (1)(b), must be monitored for leaks at least every thirty days using interstitial monitoring (WAC 173-360A-0655).

(2) **Piping not requiring secondary containment.** Except as provided for previously deferred UST systems under subsection (3) of this section, underground piping not requiring secondary containment under WAC 173-360A-0310 (5)(a) must be monitored for leaks as follows.

(a) **Pressurized piping.** Underground piping conveying regulated substances under pressure must be:

(i) Equipped with an automatic line leak detector (WAC 173-360A-0640); and

(ii) Monitored for leaks at least annually using line tightness testing (WAC 173-360A-0650) or every thirty days using one of the following methods, or combination of methods, of release detection:

(A) Monthly automatic electronic line leak detection (WAC 173-360A-0645);

(B) Interstitial monitoring (WAC 173-360A-0655). This method may be used only if the piping is secondarily contained and meets the performance standards in WAC 173-360A-0310 (5)(c);

(C) Vapor monitoring (WAC 173-360A-0660);

(D) Groundwater monitoring (WAC 173-360A-0665);

(E) Statistical inventory reconciliation (WAC 173-360A-0670); or

(F) Other release detection methods (WAC 173-360A-0675).

(b) **Suction piping.** Underground piping conveying regulated substances under suction, except as provided under WAC 173-360A-0600 (1)(b), must be monitored for leaks at least every three years using line tightness testing (WAC

173-360A-0650) or at least every thirty days using one of the following methods of release detection:

(i) Interstitial monitoring (WAC 173-360A-0655). This method may be used only if the piping is secondarily contained and meets the performance standards in WAC 173-360A-0310 (5)(c);

(ii) Vapor monitoring (WAC 173-360A-0660);

(iii) Groundwater monitoring (WAC 173-360A-0665);

(iv) Statistical inventory reconciliation (WAC 173-360A-0670); or

(v) Other release detection methods (WAC 173-360A-0675).

(3) **Additional methods for certain previously deferred UST systems.** Underground piping not requiring secondary containment under WAC 173-360A-0310 (5)(a) associated with field-constructed tanks with a capacity greater than fifty thousand gallons or airport hydrant systems must be monitored for leaks in accordance with subsection (2) of this section or using one of the following methods, or combination of methods, of release detection:

(a) Line tightness testing (WAC 173-360A-0650) performed semiannually or annually, except the method must be able to detect the leak rate specified in Table 0615-1. Piping segment volumes greater than or equal to one hundred thousand gallons not capable of meeting the maximum 3.0 gallon per hour leak rate for the semiannual test may be tested at a leak rate up to 6.0 gallons per hour according to the schedule in Table 0615-2;

Table 0615-1: Maximum Leak Detection Rate per Test Section Volume

Test Section Volume (Gallons)	Semiannual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)	Annual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)
< 50,000	1.0	0.5
≥ 50,000 to < 75,000	1.5	0.75
≥ 75,000 to < 100,000	2.0	1.0
≥ 100,000	3.0	1.5

Table 0615-2: Phase-In for Piping Segments ≥ 100,000 Gallons in Volume

Test	Time Frame	Leak Detection Rate
First test	Not later than (three years after effective date of rule)	May use up to 6.0 gallons per hour leak rate
Second test	Between (three years after effective date of rule) and (six years after effective date of rule)	May use up to 6.0 gallons per hour leak rate
Third test	Between (six years after effective date of rule) and (seven years after effective date of rule)	Must use 3.0 gallons per hour leak rate
Subsequent tests	After (seven years after effective date of rule)	Begin using semiannual or annual line testing according to Table 0615-1

(b) Vapor monitoring (WAC 173-360A-0660) performed at least every two years, except the method must use a tracer compound and be able to detect a 0.1 gallon per hour leak rate;

(c) Combination of inventory control (WAC 173-360A-0620) performed at least every thirty days, except the method must be able to detect a leak of at least 0.5 percent of flow-through and be performed in accordance with Department of Defense Instruction 4140.25, Air Transport Association Airport Fuel Facility Operations and Maintenance Guidance Manual, or equivalent procedures, and either:

(i) Line tightness testing (WAC 173-360A-0650) performed at least every two years, except the method must be performed in accordance with (a) of this subsection using the leak rates for the semiannual test in Table 0615-1;

(ii) Vapor monitoring (WAC 173-360A-0660) performed at least every thirty days; or

(iii) Groundwater monitoring (WAC 173-360A-0665) performed at least every thirty days; or

(d) Other release detection methods (WAC 173-360A-0675), except owners and operators must demonstrate the method can detect a leak as effectively as any of the methods allowed in (a) through (c) of this subsection and the department must approve the use of the method. In comparing methods, the department will consider the size of release that can be detected and the frequency and reliability of detection.

NEW SECTION

WAC 173-360A-0620 Inventory control. Owners and operators using inventory control (or another test of equivalent performance) shall comply with the requirements of this section.

(1) Standards.

(a) Inventory control must be performed in a manner that is able to detect leaks of at least one percent of the monthly flow-through plus one hundred thirty gallons.

(b) Inventory control must be performed using a gauge stick or an automatic tank gauge system that is able to measure the following:

(i) Tank liquid levels over the full range of the tank's height to the nearest one-eighth of an inch; and

(ii) Water levels in the bottom of the tank to the nearest one-eighth of an inch.

(c) Dispensing meters must be calibrated to local standards or an accuracy of at least six cubic inches for every five gallons of regulated substances that is withdrawn.

(d) The fill pipe through which regulated substances are delivered into the tank must have a drop tube that extends to within one foot of the bottom of the tank.

(2) **Performance.** Inventory control must be performed in accordance with the requirements of this subsection. Automatic tank gauge systems must be operated in accordance with the manufacturer's instructions. The following code of practice may be used, where applicable, as guidance in meeting the requirements of this subsection: American Petroleum Institute, Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets."

(a) Each day regulated substances are removed from or added to the tank, the following inventory volume measurements and calculations must be performed:

(i) Measure the number of gallons of regulated substances removed from the tank within the local standards for meter calibration or an accuracy of at least six cubic inches for every five gallons of regulated substances that is withdrawn;

(ii) Measure the tank liquid level to the nearest one-eighth of an inch before and after any delivery of regulated substances, convert the two measurements into gallons, calculate the difference between the two measurements, and reconcile the change in inventory volume with delivery receipts;

(iii) Measure the tank liquid level at the end of the day (ending inventory) to the nearest one-eighth of an inch and convert the measurement into gallons. The measurement taken after a delivery of regulated substances may be used to meet this requirement;

(iv) Calculate the book inventory by adding the starting inventory and the number of gallons delivered and then subtracting the number of gallons dispensed; and

(v) Calculate the daily inventory imbalance (overage or shortage) by subtracting the book inventory from the ending inventory.

(b) At least once each month, the level of any water in the tank must be measured to the nearest one-eighth of an inch.

(c) At the end of each monitoring period, calculate the monthly imbalance (overage or shortage) by adding together all of the daily imbalances.

(3) **Suspected release.** A release is suspected based on inventory control if:

(a) The monthly inventory imbalance is greater than one percent of the monthly flow-through plus one hundred thirty gallons; or

(b) The presence of water in the tank is unexplained.

NEW SECTION

WAC 173-360A-0625 Weekly manual tank gauging. Owners and operators using weekly manual tank gauging shall comply with the requirements of this section.

(1) Standards.

(a) Weekly manual tank gauging must be performed in a manner that is able to detect any leaks greater than the applicable test standards in Table 0625-1 with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05.

(b) Weekly manual tank gauging must be performed using a gauge stick or an automatic tank gauge system that is able to measure the following:

(i) Tank liquid levels over the full range of the tank's height to the nearest one-eighth of an inch; and

(ii) Water levels in the bottom of the tank to the nearest one-eighth of an inch.

(2) **Performance.** Weekly manual tank gauging must be performed in accordance with the requirements of this subsection. Automatic tank gauge systems must be operated in accordance with the manufacturer's instructions.

(a) Each week, the following inventory volume measurements and calculations must be performed:

(i) Select a period that is at least as long as the applicable minimum test duration specified in Table 0625-1. During this period, no liquid may be added or removed from the tank;

(ii) Take two consecutive tank liquid level measurements to the nearest one-eighth of an inch at the beginning and at the end of the selected period;

(iii) Calculate the average of the two beginning measurements and the average of the two ending measurements and convert the averages from inches to gallons;

(iv) Calculate the change in volume by subtracting the average ending measurement from the average beginning measurement; and

(v) Compare the change in volume to the applicable weekly standard in Table 0625-1.

(b) Each month, calculate the monthly change in volume by adding together the four weekly changes in volume and compare to the applicable monthly standard in Table 0625-1.

(c) At least once each month, the level of any water in the tank must be measured to the nearest one-eighth of an inch.

(3) **Suspected release.** A release is suspected based on weekly manual tank gauging if:

(a) Any weekly change in volume is greater than the applicable weekly standard in Table 0625-1;

(b) Any monthly change in volume is greater than the applicable monthly standard in Table 0625-1; or

(c) The presence of water in the tank is unexplained.

Table 0625-1: Weekly Manual Tank Gauging Criteria

Nominal Tank Capacity	Minimum Test Duration	Weekly Standard (one test)	Monthly Standard (four test average)
550 gallons or less	36 hours	10 gallons	5 gallons
551 - 1,000 gallons (when tank diameter is 64 inches)	44 hours	9 gallons	4 gallons
551 - 1,000 gallons (when tank diameter is 48 inches)	58 hours	12 gallons	6 gallons
551 - 1,000 gallons (when tank diameter other than 64 or 48 inches)	36 hours	13 gallons	7 gallons
1,001 - 2,000 gallons	36 hours	26 gallons	13 gallons

NEW SECTION

WAC 173-360A-0630 Automatic tank gauging. Owners and operators using automatic tank gauging shall comply with the requirements of this section.

(1) **Standards.** For the purposes of this method, automatic tank gauge systems must be able to:

(a) Detect at least a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05;

(b) Measure tank liquid levels over the full range of the tank's height; and

(c) Measure water levels in the bottom of the tank.

(2) **Performance.** Leak detection tests must be performed in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment. Tests must be performed with automatic tank gauge systems operating in one of the following modes:

(a) **In-tank static test mode.** In this mode, testing must be performed at least once every thirty days; or

(b) **Continuous in-tank leak detection mode.** In this mode, automatic tank gauge systems must operate on an uninterrupted basis or operate within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every thirty days.

NEW SECTION

WAC 173-360A-0635 Tank tightness testing. Owners and operators using tank tightness tests shall comply with the requirements of this section.

(1) **Standards.** Tank tightness tests must be able to detect at least a 0.1 gallon per hour leak rate from any portion of the tank up to the ninety-five percent full level or up to the product level limited by overfill prevention equipment while accounting for the effects of thermal expansion or contraction of the regulated substance, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. The tests must be able to detect the specified leak rate with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05.

(2) **Performance.** Tank tightness tests must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the method or equipment.

(3) **Reporting.** Tank tightness tests must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

NEW SECTION

WAC 173-360A-0640 Automatic line leak detectors. Owners and operators shall equip pressurized piping with automatic line leak detectors meeting the requirements of this section.

(1) **Standards.** For the purposes of this method, automatic line leak detectors must be able to:

(a) Detect a leak rate of at least three gallons per hour at ten pounds per square inch line pressure within one hour from any portion of the piping that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05; and

(b) If a leak is detected, alert the operator by shutting off or restricting the flow of regulated substances or triggering an audible or visual alarm.

(2) **Performance.** Automatic line leak detectors must be operated in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

NEW SECTION

WAC 173-360A-0645 Monthly automatic electronic line leak detection. Owners and operators using monthly automatic electronic line leak detection shall comply with the requirements of this section.

(1) **Standards.** For the purposes of this method, automatic electronic line leak detectors must be able to detect a leak rate of at least 0.2 gallons per hour at operating pressure from any portion of the piping that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05.

(2) **Performance.** Automatic electronic line leak detection tests must be performed in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

NEW SECTION

WAC 173-360A-0650 Line tightness testing. Owners and operators using line tightness tests shall comply with the requirements of this section.

(1) **Standards.** Line tightness tests must be able to detect at least a 0.1 gallon per hour leak rate at one and one-half times the operating pressure with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05.

(2) **Performance.** Line tightness tests must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the method or equipment.

(3) **Reporting.** Line tightness tests must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

NEW SECTION

WAC 173-360A-0655 Interstitial monitoring. Owners and operators using interstitial monitoring shall comply with the requirements of this section.

(1) **Standards.** The interstitial monitoring system must be able to detect a leak through the inner wall of any portion of the tank or underground piping that routinely contains a regulated substance. Methods that continuously monitor the interstitial space using a vacuum, pressure, or a liquid must be able to detect a breach in both the inner and outer walls.

(2) **Performance.** Interstitial monitoring must be performed in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

NEW SECTION

WAC 173-360A-0660 Vapor monitoring. Owners and operators using vapor monitoring (testing or monitoring for vapors within the soil gas of the excavation zone) shall comply with the requirements of this section. Except as otherwise

provided in WAC 173-360A-0610(3) or 173-360A-0615(3), vapor monitoring may be either passive (monitoring for presence of regulated substance) or active (monitoring for presence of tracer compound).

(1) **Site conditions.**

(a) The materials used as backfill must be sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area.

(b) The stored regulated substance, or a tracer compound placed in the UST system, must be sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the UST system.

(c) The measurement of vapors by the monitoring device must not be rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than thirty days.

(d) The level of background contamination in the excavation zone must not interfere with the method used to detect releases from the UST system.

(2) **Site evaluations.** In the UST excavation zone, the site must be evaluated to ensure compliance with the requirements in subsection (1) of this section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank or piping being monitored that routinely contains product.

(a) **Performance.** Site evaluations must be performed by or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter.

(b) **Reporting.** Site evaluations must be reported to the department within thirty days of the installation of the vapor monitoring system. The report must be submitted with the checklist required for the installation (WAC 173-360A-0300 (5)(b)). The report must be completed by the service provider. The report must identify the service provider and their certification type and number.

(3) **Monitoring wells.**

(a) Monitoring wells must be clearly marked and secured to avoid unauthorized access and tampering.

(b) Monitoring wells must be constructed, maintained, and decommissioned in accordance with chapter 173-160 WAC.

(4) **Vapor monitors.**

(a) Vapor monitors must be designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the UST system, a component or components of that substance, or a tracer compound placed in the UST system.

(b) Vapor monitors must also be operated in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

NEW SECTION

WAC 173-360A-0665 Groundwater monitoring.

Owners and operators using groundwater monitoring (testing or monitoring for liquids on the groundwater) shall comply with the requirements of this section. Except as otherwise provided in WAC 173-360A-0610(3) or 173-360A-0615(3),

groundwater monitoring may be either passive (monitoring for presence of regulated substance) or active (monitoring for presence of tracer compound).

(1) Site conditions.

(a) The regulated substance stored must be immiscible in water and have a specific gravity of less than one.

(b) Groundwater must never be more than twenty feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices must not be less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials).

(c) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions.

(d) Monitoring wells must be sealed from the ground surface to the top of the filter pack.

(e) Monitoring wells or devices must intercept the excavation zone or must be as close to it as is technically feasible.

(2) Site evaluations. Within and immediately below the UST system excavation zone, the site must be evaluated to ensure compliance with the requirements in subsection (1) of this section and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank or piping being monitored that routinely contains product.

(a) **Performance.** Site evaluations must be performed by or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter.

(b) **Reporting.** Site evaluations must be reported to the department within thirty days of the installation of the groundwater monitoring system. The report must be submitted with the checklist required for the installation (WAC 173-360A-0300 (5)(b)). The report must be completed by the service provider. The report must identify the service provider and their certification type and number.

(3) Monitoring wells.

(a) Monitoring wells must be clearly marked and secured to avoid unauthorized access and tampering.

(b) Monitoring wells must be constructed, maintained, and decommissioned in accordance with chapter 173-160 WAC.

(4) Monitoring devices or manual methods.

(a) The continuous monitoring devices or manual methods used must be able to detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells.

(b) The continuous monitoring devices must be operated in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

NEW SECTION

WAC 173-360A-0670 Statistical inventory reconciliation. Owners and operators using statistical inventory reconciliation (SIR) shall comply with the requirements of this section. SIR involves the application of statistical principles

to inventory data similar to those described in WAC 173-360A-0620.

(1) Standards. The SIR method must:

(a) Be able to detect at least a 0.2 gallon per hour leak rate or a release of one hundred fifty gallons within a thirty-day period from any portion of the tank or underground piping that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05;

(b) Use a threshold that does not exceed one-half the minimum detectable leak rate; and

(c) Be able to report a quantitative result with a calculated leak rate.

(2) Performance. SIR must be performed in accordance with the requirements of this subsection.

(a) Inventory control must be performed in accordance with the requirements in WAC 173-360A-0620 and the SIR vendor's instructions.

(b) SIR must be performed in accordance with any conditions or limitations specified in the certification of the SIR method.

(c) Conclusive SIR results must be obtained within the thirty-day monitoring period.

NEW SECTION

WAC 173-360A-0675 Other release detection methods. Owners and operators using other methods, or combinations of methods, of release detection shall comply with the requirements of this section.

(1) Standards. Other release detection methods must:

(a) Be able to detect a 0.2 gallon per hour leak rate or a release of one hundred fifty gallons within a thirty-day period from any portion of the tank or underground piping that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05; or

(b) Be approved by the department. To be approved, owners and operators must demonstrate the other method is able to detect a leak as effectively as any of the following methods. In comparing methods, the department will consider the size of release that can be detected and the frequency and reliability of detection. Owners and operators must comply with any additional requirements imposed by the department on its use to ensure protection of human health and the environment:

(i) Automatic tank gauging (WAC 173-360A-0630);

(ii) Tank tightness testing (WAC 173-360A-0635);

(iii) Monthly automatic electronic line leak detection (WAC 173-360A-0645);

(iv) Line tightness testing (WAC 173-360A-0650);

(v) Interstitial monitoring (WAC 173-360A-0655);

(vi) Vapor monitoring (WAC 173-360A-0660);

(vii) Groundwater monitoring (WAC 173-360A-0665);

or

(viii) Statistical inventory reconciliation (WAC 173-360A-0670).

(2) Performance. Other release detection methods must be performed in accordance with the manufacturer's instructions, any conditions or limitations specified in the certifica-

tion of the method or equipment, and any additional requirements imposed by the department.

PART 7

RELEASE REPORTING, CONFIRMATION, AND CLEANUP

NEW SECTION

WAC 173-360A-0700 Reporting of suspected releases.

Within twenty-four hours of identifying or being notified by another person of any of the following conditions, owners and operators of UST systems shall report a suspected release to the department and initiate an investigation of the suspected release in accordance with WAC 173-360A-0720:

(1) Presence of released regulated substances at the UST facility or in the surrounding area (such as the presence of free product or its constituents or vapors in soils, basements, sewer or utility lines, groundwater, or surface water);

(2) Unusual operating conditions (such as the erratic behavior of product dispensing equipment, the sudden loss of regulated substances from an UST system, the unexplained presence of water in a tank, or the presence of liquid in the interstitial space of a secondarily contained UST system), unless:

(a) The UST system component is found not to be releasing regulated substances to the environment;

(b) Any defective UST system component is immediately repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300; and

(c) For secondarily contained UST systems, any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine) is immediately removed; or

(3) Monitoring results or alarms from a release detection method required under Part 6 of this chapter indicate that a release may have occurred, unless:

(a) The alarm was investigated and determined to be a nonrelease event (for example, alarm caused by power surge or filling the tank during release detection testing);

(b) The release detection equipment is found to be defective, and either:

(i) The defective equipment is immediately repaired or recalibrated in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300, and additional monitoring does not confirm the initial result; or

(ii) Another applicable release detection method is used and additional monitoring does not confirm the initial result;

(c) In the case of inventory control (WAC 173-360A-0620), a second month of data does not confirm the initial result. However, owners and operators shall immediately investigate all larger-than-normal or reoccurring variations in inventory control results, and report such variations if they are unaccounted for, without waiting to obtain a second month of data; or

(d) In the case of interstitial monitoring (WAC 173-360A-0655):

(i) The leak is contained in the secondary containment;

(ii) Any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine) is immediately removed; and

(iii) Any defective UST system component is immediately repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

Note: Other federal, state, and local laws may also require reporting, and in some cases investigation, of suspected releases.

NEW SECTION

WAC 173-360A-0710 Investigation due to off-facility impacts.

When required by the department, owners and operators of an UST system shall follow the procedures in WAC 173-360A-0720 to determine if the UST system is the source of off-facility impacts. These impacts include the discovery of regulated substances (such as the presence of free product or its constituents or vapors in soils, basements, sewer or utility lines, groundwater, or surface water) that has been observed by the department or brought to its attention by another person.

NEW SECTION

WAC 173-360A-0720 Release investigation and confirmation steps.

Unless remedial action is initiated in accordance with WAC 173-360A-0750(4), owners and operators shall immediately investigate and confirm all suspected releases of regulated substances requiring reporting under WAC 173-360A-0700 or investigation under WAC 173-360A-0710 using the following steps, except as otherwise directed by the department.

(1) **System test.** First, all tanks and underground piping suspected of a release must be tested to determine whether a leak exists or whether a breach exists in either wall of the secondary containment. The tests must be completed within seven days of identifying a suspected release or receiving notice that the department requires investigation of a suspected release.

(a) **Performance.** For each tank or pipe suspected of a release, one of the following tests must be performed:

(i) A tightness test of the tank or piping in accordance with WAC 173-360A-0635 or 173-360A-0650; or

(ii) A tightness test of the secondary containment area of the tank or piping used for interstitial monitoring in accordance with WAC 173-360A-0490 (4)(c) and, for piping, a tightness test of any containment sumps used for interstitial monitoring in accordance with WAC 173-360A-0450.

(b) Next steps.

(i) If the test results do not indicate there is a release and environmental contamination is not the basis for suspecting a release, then no further investigation is required.

(ii) If the test results do not indicate there is a release but environmental contamination is the basis for suspecting a release, then a site check must be performed in accordance with subsection (2) of this section.

(iii) If the test results confirm there is a leak into the interstice but do not indicate a release, then the defective UST system components must be repaired, replaced, or closed immediately. No further investigation is required.

(iv) If the test results indicate there is a release, then:

- (A) The defective UST system components must be repaired, replaced, or closed immediately; and
- (B) A site check must be performed in accordance with subsection (2) of this section.

(2) **Site check.** Second, if required based on the results of the system test in subsection (1) of this section, a site check must be performed to determine whether regulated substances have been released from the UST system into the environment. The site check must be completed within thirty days of identifying a suspected release or receiving notice that the department requires investigation of a suspected release.

(a) **Performance.** Site checks must be performed in accordance with WAC 173-360A-0730.

(b) Next steps.

(i) If the results of the site check do not indicate there is a release from the UST system that may pose a threat to human health or the environment, then no further investigation of the suspected release is required.

(ii) If the results of the site check confirm there is a release from the UST system that may pose a threat to human health or the environment, then the confirmed release must be reported, investigated, and cleaned up in accordance with WAC 173-360A-0750.

NEW SECTION

WAC 173-360A-0730 Site assessment requirements.

Owners and operators shall ensure site assessments, including site checks, are performed in accordance with the requirements of this section.

(1) **Applicability.** Site assessments are required under this chapter to:

(a) Investigate a suspected release from an UST system, as applicable (WAC 173-360A-0720(2)). Such assessments are referred to as "site checks";

(b) Suspend financial responsibility for a temporarily closed UST system (WAC 173-360A-0800 (3)(c) and 173-360A-1010(2));

(c) Allow an UST system to be temporarily closed for more than twelve months when the tanks or piping do not meet applicable performance standards or upgrade requirements (WAC 173-360A-0800(4));

(d) Permanently close an UST system, or a tank or piping run that is part of an UST system (WAC 173-360A-0810(3)); and

(e) Undertake a change-in-service of an UST system (WAC 173-360A-0820(3)).

(2) **Service provider.** Site assessments must be performed or directly supervised by a service provider certified in accordance with Part 9 of this chapter. The service provider must be present at the UST facility when and where the site assessment is performed and any tanks or piping are removed.

(3) **Sampling and analysis plans.** A sampling and analysis plan must be prepared for all sampling activities that are part of a site assessment.

(a) **Submission.** The department may require a sampling and analysis plan be submitted to the department at least

thirty days before any sampling is performed. The department may also require alternative sampling and analysis.

(b) **Content.** A sampling and analysis plan must include the following information at a minimum:

(i) The reasons for performing the site assessment;

(ii) The UST system or portion of the UST system around which the assessment is to be performed;

(iii) The media to be assessed, including under what circumstances groundwater will be assessed or an explanation of why groundwater does not need to be assessed;

(iv) The number and location of samples to be collected. If the plan does not include all of the soil samples specified in subsection (5)(a)(i) of this section, then the plan must explain how physical conditions prevent the collection of those samples;

(v) The methods to be used to collect and handle the samples;

(vi) The regulated substances to be analyzed for in the samples;

(vii) The methods to be used to analyze the samples for those substances;

(viii) The name of the accredited laboratory to be used to perform those analyses;

(ix) The methods to be used for quality assurance and quality control; and

(x) Any other information required by the department.

(4) **Health and safety requirements.** Persons performing site assessments under this chapter shall comply, as applicable, with the requirements of the Occupational Safety and Health Act (20 U.S.C. Sec. 651 et seq.) and the Washington Industrial Safety and Health Act (chapter 49.17 RCW), and regulations promulgated pursuant thereto. These requirements are subject to enforcement by the designated federal and state agencies.

(5) **Sampling and analysis requirements.** Site assessments must be performed in accordance with the requirements of this subsection, except as otherwise directed by the department. The department may require additional sampling or analysis on a site-specific basis to confirm whether a release has occurred that may pose a threat to human health or the environment or to address any such threats.

(a) **Soil assessment.**

(i) **Number and location of samples.** Soil samples must be collected where contamination has been detected or is most likely to be present. At a minimum, the soil samples specified in Table 0730-1 must be collected unless:

(A) Physical conditions prevent the collection of any of the specified samples and an alternative sampling plan is prepared. The department must be notified in the site assessment report of any such changes and the reasons for the changes; or

(B) A release that may pose a threat to human health or the environment is confirmed without the collection of some or all of the specified samples.

(ii) **Regulated substances to be analyzed.** All regulated substances currently or previously stored in the UST system must be analyzed for in the soil samples.

(A) For petroleum, analyze for the substances specified for the type of product in Table 830-1 of WAC 173-340-900.

(B) For hazardous substances, analyze for the substances and any likely decomposition by-products.

(iii) **Analytical procedures.** The soil samples must be collected, handled, and analyzed in accordance with the requirements in WAC 173-340-830.

(iv) **Evaluation of results.** A release that may pose a threat to human health or the environment is confirmed if the concentration of any regulated substance analyzed in any of the soil samples exceeds the following levels:

(A) The level specified in Table 740-1 of WAC 173-340-900; or

(B) If a regulated substance is not listed in Table 740-1, a Method B unrestricted soil cleanup level established under WAC 173-340-740(3).

(b) Groundwater assessment.

(i) **Applicability.** Groundwater must be sampled if a release has not been confirmed by soil sampling and if:

(A) The lowest point of the UST system is located in groundwater;

(B) A release is suspected based on environmental contamination and the lowest point of the UST system is located within two feet of the seasonal high water table;

(C) Groundwater monitoring wells already exist at the UST facility where the site assessment is being performed, the wells are located in areas at the facility that would provide useful data, and the condition of the wells allows for the collection of representative samples;

(D) Physical conditions prevent collection of all or some of the soil samples required under (a)(i) of this subsection and groundwater sampling is part of an alternative sampling plan; or

(E) Groundwater sampling is otherwise required by the department.

(ii) **Number and location of samples.** Groundwater samples must be collected where contamination has been detected or is most likely to be present.

(iii) **Regulated substances to be analyzed.** All regulated substances currently or previously stored in the UST system must be analyzed for in the groundwater samples.

(A) For petroleum, analyze for the substances specified for the type of product in Table 830-1 of WAC 173-340-900.

(B) For hazardous substances, analyze for the substances and any likely decomposition by-products.

(iv) **Analytical procedures.** The groundwater samples must be collected, handled, and analyzed in accordance with the requirements in WAC 173-340-830.

(v) **Evaluation of results.** A release that may pose a threat to human health or the environment is confirmed if the concentration of any regulated substance tested in any of the groundwater samples exceeds the following levels:

(A) The levels specified in Table 720-1 of WAC 173-340-900; or

(B) If the regulated substance is not listed in Table 720-1, a Method B potable groundwater cleanup level established under WAC 173-340-720(4).

(6) **Reporting and cleanup of confirmed releases.** If a site assessment confirms that a release has occurred from an UST system that may pose a threat to human health or the environment, then:

(a) The service provider who performed or directly supervised the site assessment shall notify:

(i) An owner or operator of the UST system immediately; and

(ii) The department within twenty-four hours. However, if an owner or operator of the system is not immediately available, the service provider shall notify the department immediately.

(b) Owners and operators shall report, investigate, and clean up the confirmed release in accordance with WAC 173-360A-0750.

(7) Reporting results of assessment.

(a) Site assessments must be reported to the department within thirty days by submitting the applicable checklist provided by the department and a report including the information specified in subsection (8) of this section. Both the checklist and the report must be completed by the service provider.

(b) If a site assessment confirms a release that may pose a threat to human health or the environment, the site assessment report may be combined with the remedial action reports required under WAC 173-340-450, provided the combined report is submitted within thirty days of release confirmation.

(8) **Content of report.** At a minimum, site assessment reports must include the following information:

(a) Information about the service provider who performed or directly supervised the site assessment, including the name of the service provider, the certification type and number, and the firm with which the service provider is affiliated;

(b) Information about the UST system and the UST facility where the system is located, including:

(i) The name of the owner and operator of the system and the owner of the property where the system is located, if different;

(ii) The location of the system within the facility;

(iii) The components comprising the system;

(iv) Any previous repairs to the system;

(v) The type of regulated substances stored in the system, both currently and historically since the date of installation;

(vi) The dimensions of the excavation zone and the depth, width, and type of backfill material used within that zone, if known;

(vii) The number and location of any other currently or previously regulated systems at the facility; and

(viii) The types and locations of any groundwater monitoring wells at the facility;

(c) Information on any previous leaks or confirmed releases from the UST system, and whether the releases were cleaned up;

(d) The physical characteristics of the UST facility, including the following:

(i) The current uses of the land within and adjacent to the facility, and any known prior uses of that land;

(ii) The geology of the site, including soil types and characteristics;

(iii) The hydrology of the site, including:

(A) Surface draining characteristics;

(B) Depth to groundwater (including seasonal fluctuations);

(C) Presence of groundwater in the excavation zone, direction of groundwater flow (if relevant to any groundwater sampling plan);

(D) Proximity of the UST system to any nearby drinking water wells or surface water bodies (if known); and

(E) Potential hydraulic connections between groundwater and any nearby surface water bodies (if known); and

(iv) The location of tax parcel(s) comprising the facility, any above-ground and below-ground structures at the facility, any paved areas at the facility, and any roads or utilities on or adjacent to the facility;

(e) A summary of the sampling and analyses performed, including any changes to the plan or the sampling or analyses required under this section and the reason for those changes;

(f) All laboratory reports;

(g) The results of the site assessment, including:

(i) A table showing, for each field sample collected, the unique identifying number assigned to the sample, whether the sample was a composite sample, the laboratory results for all indicator constituents analyzed, the method used to analyze the sample, and the detection limit for that method;

(ii) Any factors that may have compromised the quality of the data or validity of the results; and

(iii) A conclusion as to whether there has been a release of regulated substances from the UST system that may pose a threat to human health or the environment;

(h) Site diagrams that include the following information at a minimum:

(i) The geographic location of the UST facility and a north arrow;

(ii) The location of the UST system within the UST facility, including the location of all tanks, piping, and dispensers, and any adjacent structures or streets;

(iii) To the extent known, the dimensions of the excavation zone and the backfill material used within that zone;

(iv) The physical characteristics of the UST facility, including the information specified in (d) of this subsection and the location of any other regulated UST systems at the facility; and

(v) The horizontal and vertical location of and unique identifying number for all samples collected for laboratory analysis, and which samples were collected from excavated soils. Diagrams must clearly differentiate between soil and groundwater samples and between investigatory and confirmation samples; and

(i) Any other information required by the department.

(9) **Department determination.** After receiving a site assessment report, the department will determine whether any further assessment or information is necessary. The department may require further sampling or analysis if:

(a) The assessment performed does not comply with the requirements of this section; or

(b) The department determines further assessment is necessary to confirm a suspected release, determine whether a release poses a threat to human health or the environment, or to address any such threats.

(10) **Recordkeeping.** Records of site assessments, including sampling and analysis plans and site assessment reports and checklists, must be maintained until six years after the UST system is permanently closed or undergoes a change-in-service.

Table 0730-1: Minimum Number and Location of Soil Samples

	Tanks	Piping	Dispensers
In Place	<p>Collect the following samples around the excavation zone where contamination is most likely to be present:</p> <ul style="list-style-type: none"> • When assessing single tank with a capacity of < 9,000 gallons, collect three samples, one at each end and one on another side of the tank. (1, 2) • When assessing single tank with a capacity of ≥ 9,000 gallons, collect four samples, one at each side of the tank. (1, 2) • When assessing multiple tanks in an excavation zone, collect four samples for the first tank and two additional samples for each additional tank, spacing the samples evenly around the excavation zone. (1, 2) 	<p>Collect one sample for every 50 feet of piping. For example, collect one sample if the piping run is less than 50 feet and two samples if the piping run is 50 to 100 feet. Collect the samples adjacent to the piping where contamination is most likely to be present, such as at connections, fittings, or elbows. (1, 2)</p>	<p>Collect one sample adjacent to each dispenser. (1, 2)</p>

	Tanks	Piping	Dispensers															
Removed	<p>Collect the following samples within the excavation zone where contamination is most likely to be present:</p> <ul style="list-style-type: none"> • When assessing single tank with a capacity of < 9,000 gallons, collect three samples, one beneath the tank (2), one beneath where the piping from the tank entered a sidewall, and one from another sidewall. • When assessing single tank with a capacity of ≥ 9,000 gallons, collect five samples, one from beneath the tank (2), one beneath where the piping from the tank entered a sidewall, and one from each of the other three sidewalls. • When assessing multiple tanks from an excavation zone, collect five samples for the first tank and two additional samples for each additional tank, one beneath each tank (2), one beneath where piping from each tank entered a sidewall, and spacing remaining samples evenly around the sidewalls. 																	
	<p>Collect the following samples from excavated soils where contamination is most likely to be present:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Cubic Yards of Soil</th><th style="text-align: left;">Minimum Number of Samples</th></tr> </thead> <tbody> <tr> <td>0-25</td><td>1</td></tr> <tr> <td>26-50</td><td>2</td></tr> <tr> <td>51-100</td><td>3</td></tr> <tr> <td>101-500</td><td>5</td></tr> <tr> <td>501-1000</td><td>7</td></tr> <tr> <td>1001-2000</td><td>10</td></tr> <tr> <td>>2000</td><td>10 + 1 additional sample for each additional 500 cubic yards of soil</td></tr> </tbody> </table>	Cubic Yards of Soil	Minimum Number of Samples	0-25	1	26-50	2	51-100	3	101-500	5	501-1000	7	1001-2000	10	>2000	10 + 1 additional sample for each additional 500 cubic yards of soil	<p>Collect one sample for every 50 feet of piping. For example, collect one sample if the piping run is less than 50 feet and two samples if the piping run is 50 to 100 feet. Collect the samples beneath the piping where contamination is most likely to be present, such as at connections, fittings, or elbows. (2)</p>
Cubic Yards of Soil	Minimum Number of Samples																	
0-25	1																	
26-50	2																	
51-100	3																	
101-500	5																	
501-1000	7																	
1001-2000	10																	
>2000	10 + 1 additional sample for each additional 500 cubic yards of soil																	
			Collect one sample beneath each dispenser. (2)															

Footnotes: (1) **Horizontal distance:** The specified samples must be collected from native soil as close as practicable to, but no more than ten feet from the applicable tank, pipe, or dispenser.

(2) **Vertical distance:** The specified samples must be collected from native soil as close as practicable to the bottom of the applicable tank, pipe, or dispenser. If groundwater is encountered, soil samples must be collected at the approximate top of the water table.

NEW SECTION

WAC 173-360A-0740 Reporting and cleanup of spills and overfills. Owners and operators shall respond to spills and overfills of regulated substances in accordance with the requirements of this section.

(1) If a spill or overfill of regulated substances from an UST system results in a release that may pose a threat to human health or the environment, including in the following cases, then the release must be reported, investigated, and cleaned up in accordance with WAC 173-360A-0750:

(a) A spill or overfill of petroleum results in a release to the environment of more than twenty-five gallons, a sheen on surface water, or groundwater contamination; or

(b) A spill or overfill of a hazardous substance results in a release to the environment of more than the reportable quantity specified in 40 C.F.R. Sec. 302.

(2) If a spill or overfill of regulated substances from an UST system does not result in a release or results in a release

that does not pose a threat to human health or the environment, then the spill or overfill must be:

(a) Immediately contained and cleaned up as follows:

(i) Eliminate or reduce any fire, explosive, or vapor hazards resulting from the spill or overfill, and do so in a manner that minimizes the release of regulated substances into the environment;

(ii) Prevent the release or further release of regulated substances into the environment and the migration of any substances already released;

(iii) Absorb or otherwise contain any free product and properly dispose of the product and any used absorbent materials in accordance with all applicable federal, state, and local requirements. Free product shall not be flushed into storm drains, catch basins, dry wells, monitoring wells, or other locations with a possible connection to surrounding soils, groundwater, or surface water; and

(iv) Provide for the proper disposal or treatment of any contaminated soils in accordance with applicable federal, state, and local requirements; and

(b) Reported to the department within twenty-four hours if the cleanup required under (a) of this subsection has not been completed.

Note: Other federal, state, and local laws may also require reporting, and in some cases cleanup, of spills and overfills.

NEW SECTION

WAC 173-360A-0750 Reporting and cleanup of confirmed releases. Owners and operators shall immediately respond to all confirmed releases of regulated substances from UST systems that may pose a threat to human health or the environment, including those confirmed under WAC 173-360A-0720 through 173-360A-0740, in accordance with the requirements of this section.

(1) Within twenty-four hours of confirming a release, the release must be reported to the department.

(2) Within twenty-four hours of confirming a release, the UST system must be secured to prevent further delivery or deposit of regulated substances until the defective UST system components are repaired, replaced, or closed.

(3) Within thirty days of confirming a release, financial responsibility records must be submitted to the department in accordance with WAC 173-360A-1045 (2)(a).

(4) Confirmed releases must be investigated and cleaned up in accordance with chapter 173-340 WAC or as otherwise directed by the department under chapter 90.48 RCW.

Note: Other federal, state, and local laws may also require reporting, and in some cases cleanup, of confirmed releases.

PART 8

CLOSURE

NEW SECTION

WAC 173-360A-0800 Temporary closure of UST systems. Owners and operators of temporarily closed UST systems shall comply with the requirements of this section.

(1) **Taking UST systems out of operation.** Within thirty days of temporarily closing an UST system:

(a) The department must be notified using the applicable form provided by the department; and

(b) If the UST system will be temporarily closed for more than ninety days, the following actions must be completed and reported to the department on the form:

(i) Ensure vent lines are open and functioning;

(ii) Cap or secure all other lines, pumps, entryways, and ancillary equipment;

(iii) Empty the UST system in accordance with subsection (2) of this section, or measure the amount of regulated substances remaining in the system; and

(iv) If no UST systems are in operation at the UST facility, return the facility compliance tag to the department.

(2) **Emptying temporarily closed UST systems.** When emptying a temporarily closed UST system:

(a) All materials must be removed from the UST system using commonly employed practices. The remaining residue in the tanks must not exceed 2.54 centimeters (one inch); and

(b) The department must be notified in writing within thirty days. The notice must include documentation that the UST system has been emptied, such as an invoice. This notice may be combined with the notice required under subsection (1) of this section.

(3) **Maintaining compliance during temporary closure.** Except as otherwise provided in this subsection, owners and operators shall comply with all of the applicable requirements of this chapter during temporary closure, including maintenance of corrosion protection and payment of annual tank fees.

(a) **Spill and overfill prevention.** The following tests and inspections of spill and overfill prevention equipment may be suspended during temporary closure, regardless of whether the UST system is emptied in accordance with subsection (2) of this section:

(i) Walkthrough inspections of spill prevention equipment (WAC 173-360A-0420);

(ii) Monitoring and tightness tests of spill prevention equipment (WAC 173-360A-0460); and

(iii) Inspections of overfill prevention equipment (WAC 173-360A-0470).

(b) **Release detection and containment.** Release detection in Part 6 of this chapter and the following tests and inspections of release detection equipment and containment may be suspended during temporary closure if an UST system is emptied in accordance with subsection (2) of this section:

(i) Walkthrough inspections of release detection equipment, containment sumps, and hydrant pits and vaults (WAC 173-360A-0420);

(ii) Monitoring and tightness tests of containment sumps used for interstitial monitoring (WAC 173-360A-0450); and

(iii) Tests of release detection equipment (WAC 173-360A-0480).

(c) **Financial responsibility.** Financial responsibility in Part 10 of this chapter may be suspended during temporary closure if:

(i) The UST system is emptied in accordance with subsection (2) of this section; and

(ii) After the UST system is emptied, a site assessment around the UST system is completed and reported in accordance with WAC 173-360A-0730. Unless otherwise directed by the department, a site assessment is not required if:

(A) A release from the UST system had previously been confirmed and reported to the department; and

(B) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4).

(4) **Permanent closure of substandard UST systems.** An UST system must be permanently closed within twelve months of temporary closure if the tanks or piping do not meet the applicable performance standards or upgrade requirements in Part 3 of this chapter, unless:

(a) A site assessment is performed around the UST system in accordance with WAC 173-360A-0730. Unless other-

wise directed by the department, a site assessment is not required if:

(i) A release from the UST system had previously been confirmed and reported to the department; and

(ii) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4); and

(b) The department provides an extension of the twelve-month period. Requests for extensions must be submitted to the department in writing after the site assessment is completed.

(5) Returning UST systems to operation.

(a) Requirements for all temporarily closed UST systems. Before returning an UST system to operation, owners and operators must comply with all of the applicable requirements of this chapter, including any suspended during temporary closure under subsection (3) of this section. If financial responsibility is suspended during temporary closure, the owner or operator must demonstrate financial responsibility in accordance with WAC 173-360A-1045 (1)(a) or (b), as applicable, before returning an UST system to operation.

(b) Additional requirements for UST systems temporarily closed more than ninety days. When an UST system is temporarily closed for more than ninety days, owners and operators must also comply with the following additional requirements.

(i) **Tests and inspections.** Before returning an UST system to operation, the following tests and inspections, as applicable, must be completed to ensure the UST system is operating properly and will prevent releases to the environment.

(A) **Tanks and piping.** If release detection is suspended during temporary closure, tightness tests of tanks and piping must be performed in accordance with WAC 173-360A-0635 and 173-360A-0650. This requirement does not apply to suction piping meeting the standards in WAC 173-360A-0600 (1)(b)(i) through (v). The department must authorize any delivery or deposit of regulated substances needed to perform the tightness tests. To obtain such authorization:

(I) A preliminary evaluation of the tanks (such as a pressure decay test) must be performed; and

(II) A request must be submitted to the department using the applicable form provided by the department. The results of the preliminary evaluation must be included with the request.

(B) **Spill and overfill prevention equipment.** If suspended during temporary closure, the following tests and inspections of spill and overfill prevention equipment must be performed:

(I) Walkthrough inspections of spill prevention equipment (WAC 173-360A-0420);

(II) Monitoring or tightness tests of spill prevention equipment (WAC 173-360A-0460); and

(III) Inspections of overfill prevention equipment (WAC 173-360A-0470).

(C) **Release detection equipment and containment.** If suspended during temporary closure, the following tests and inspections of release detection equipment and containment must be performed:

(I) Walkthrough inspections of release detection equipment, containment sumps, and hydrant pits and vaults (WAC 173-360A-0420);

(II) Monitoring or tightness tests of containment sumps used for interstitial monitoring (WAC 173-360A-0450); and

(III) Tests of release detection equipment (WAC 173-360A-0480).

(ii) **Notification of return to operation.** Within thirty days of returning an UST system to operation, the department must be notified using the applicable form provided by the department. The completed checklists of any UST system services required to return the UST system to operation must be included with the notification form.

(c) **Reissuance of facility compliance tag.** If the facility compliance tag for an UST facility is returned to the department under subsection (1)(b)(iv) of this section, the department will reissue a facility compliance tag upon receipt of the completed notification form required under (b)(ii) of this subsection.

NEW SECTION

WAC 173-360A-0810 Permanent closure of UST systems. Owners and operators shall permanently close an UST system, or a tank or piping run that is part of an UST system, in accordance with the requirements of this section.

(1) **Notice of intent.** Owners and operators shall notify the department of their intent to permanently close an UST system, or a tank or piping run that is part of an UST system, at least thirty days, but no more than ninety days, before the planned start date using the applicable form provided by the department. Owners and operators shall also confirm the planned start date with the department at least three business days before starting permanent closure.

(2) **Decommission.** When an UST system, or a tank or piping run that is part of an UST system, undergoes permanent closure, it must be decommissioned in accordance with the requirements of this subsection.

(a) **Actions.** To decommission an UST system, or a tank or piping run, undergoing permanent closure, the following actions must be completed, as applicable:

(i) Tanks must be emptied and cleaned by removing all liquids and accumulated sludge;

(ii) Piping must be emptied by removing all liquids;

(iii) Tanks must be removed from the ground or closed in place by filling with an inert solid material or in another manner approved by the department;

(iv) Piping must be removed from the ground or closed in place by capping; and

(v) Any liquids or sludge removed from the tanks or piping must be designated and disposed of in accordance with all applicable federal, state, and local requirements.

(b) **Performance.** Decommissioning must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) In accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(A) American Petroleum Institute, Recommended Practice 1604, "Closure of Underground Petroleum Storage Tanks";

(B) American Petroleum Institute, Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning through Recommissioning";

(C) American Petroleum Institute, Recommended Practice 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks";

(D) American Petroleum Institute, Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(E) National Fire Protection Association, Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair"; and

(F) National Institute for Occupational Safety and Health, Publication 80-106, "Criteria for a Recommended Standard: Working in Confined Spaces."

(c) **Reporting.** Decommissioning must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(3) **Site assessment.** When an UST system, or a tank or piping run that is part of an UST system, undergoes permanent closure, a site assessment must be conducted around the system or the part of the system being closed in accordance with WAC 173-360A-0730. Unless otherwise directed by the department, a site assessment is not required if:

(a) A release from the UST system had previously been confirmed and reported to the department; and

(b) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4).

(4) **Return of facility compliance tag.** If there are no UST systems in operation at the UST facility, the facility compliance tag must be returned to the department with the checklist required under subsection (2)(c) of this section.

(5) **Partially exempt UST systems - Notice of permanent closure.** Owners and operators of a partially exempt UST system identified in WAC 173-360A-0110 (2)(a) shall notify the department in writing within thirty days of the permanent closure of the UST system.

NEW SECTION

WAC 173-360A-0820 Change-in-service of UST systems. Owners and operators shall undertake a change-in-service of an UST system in accordance with the requirements of this section.

(1) **Notice of intent.** Owners and operators shall notify the department of their intent to undertake a change-in-service of an UST system at least thirty days, but no more than ninety days, before the planned start date using the applicable form provided by the department. Owners and operators shall also confirm the planned start date with the department at least three business days before starting the change-in-service.

(2) **Decommission.** When an UST system undergoes a change-in-service, the system must be decommissioned in accordance with the requirements of this subsection.

(a) **Actions.** To decommission an UST system undergoing a change-in-service, the following actions must be completed, as applicable:

(i) Tanks must be emptied and cleaned by removing all liquids and accumulated sludge;

(ii) Piping must be emptied of all liquids; and

(iii) Any liquids or sludge removed from the tanks or piping must be designated and disposed of in accordance with all applicable federal, state, and local requirements.

(b) **Performance.** Decommissioning must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) In accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(A) American Petroleum Institute, Recommended Practice 1604, "Closure of Underground Petroleum Storage Tanks";

(B) American Petroleum Institute, Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning through Recommissioning";

(C) American Petroleum Institute, Recommended Practice 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks";

(D) American Petroleum Institute, Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(E) National Fire Protection Association, Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair"; and

(F) National Institute for Occupational Safety and Health, Publication 80-106, "Criteria for a Recommended Standard: Working in Confined Spaces."

(c) **Reporting.** Decommissioning must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(3) **Site assessment.** When an UST system undergoes a change-in-service, a site assessment must be performed around the system in accordance with WAC 173-360A-0730. Unless otherwise directed by the department, a site assessment is not required if:

(a) A release from the UST system had previously been confirmed and reported to the department; and

(b) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4).

(4) **Return of facility compliance tag.** If there are no UST systems in operation at the UST facility, the facility compliance tag must be returned to the department with the checklist required under subsection (2)(c) of this section.

(5) **Partially exempt UST systems - Notice of change-in-service.** Owners and operators of a partially exempt UST system identified in WAC 173-360A-0110 (2)(a) shall notify the department in writing within thirty days of the change-in-service of the UST system.

NEW SECTION

WAC 173-360A-0830 Previously closed UST systems. When directed by the department, owners and operators of the following UST systems shall permanently close those systems (decommission and perform site assessments around the systems) in accordance with WAC 173-360A-0810 if the department determines releases from those systems may pose a current or potential threat to human health or the environment or if any additional closure activities are performed:

- (1) UST systems permanently closed before December 22, 1988; and
- (2) Previously deferred UST systems permanently closed before (effective date of rule).

PART 9**SERVICE PROVIDERS**NEW SECTION

WAC 173-360A-0900 Purpose and applicability. (1) This part establishes a certification program for service providers, specifies the responsibilities of services providers, and identifies which services on UST systems must be performed by certified service providers. The certification program is designed to ensure that the services performed on UST systems are performed safely and in a manner that will protect human health and the environment.

(2) The requirements of this part apply to any services performed on an UST system requiring the use of a service provider under this chapter.

(3) The applicability of this part does not affect the applicability of any other legally applicable licensing requirements or manufacturer certification requirements.

NEW SECTION

WAC 173-360A-0910 General requirements. Owners and operators shall ensure that:

(1) UST system services are performed by or under the direct supervision of a service provider who is certified to perform the services in accordance with WAC 173-360A-0920 and 173-360A-0930;

(2) UST system services are performed in accordance with the requirements of this chapter and any other legally applicable requirements;

(3) UST system services are reported in accordance with WAC 173-360A-0230(3); and

(4) Records of UST system services are maintained in accordance with WAC 173-360A-0240(1).

NEW SECTION

WAC 173-360A-0920 Certifications required to perform services. Owners and operators shall ensure that UST system services are performed by or under the direct supervision of a service provider certified in accordance with the requirements of this section. Table 0920-1 identifies the UST system services requiring the use of a service provider and the certification that a service provider must have to perform those services. There are six types of certification, which are specified in WAC 173-360A-0930. Some UST system services may be performed by more than one type of service provider.

Table 0920-1: Type of Certification Required to Perform UST System Services

UST System Service	Service Requirements	Type of Certification
Services not involving corrosion protection		
Installing UST systems or components, except cathodic protection	WAC 173-360A-0300	Installation/repair
Performing internal inspections of tanks	WAC 173-360A-0320 (1) and (2)(a)(ii)(A), WAC 173-360A-0330 (1) and (2)(a)(i)(B), or WAC 173-360A-0440	Installation/repair
Tightness testing of containment sumps used for interstitial monitoring	WAC 173-360A-0450	Tightness testing or installation/repair
Tightness testing of spill prevention equipment	WAC 173-360A-0460	Tightness testing or installation/repair
Inspecting overfill prevention equipment	WAC 173-360A-0470	Tightness testing or installation/repair
Testing of electronic or mechanical release detection equipment	WAC 173-360A-0480	Tightness testing or installation/repair
Repairing UST system components, except cathodic protection systems	WAC 173-360A-0490	Installation/repair
Tightness testing of secondary containment areas of tanks or piping used for interstitial monitoring	WAC 173-360A-0490 (4)(c)	Tightness testing or installation/repair

UST System Service	Service Requirements	Type of Certification
Tightness testing of tanks	WAC 173-360A-0635	Tightness testing
Tightness testing of piping	WAC 173-360A-0650	Tightness testing
Site evaluations required to use vapor or groundwater monitoring as a release detection method	WAC 173-360A-0660(2) or WAC 173-360A-0665(2)	Site assessment
Site assessments, including site checks	WAC 173-360A-0730	Site assessment
Decommissioning tanks or piping undergoing permanent closure or change-in-service	WAC 173-360A-0810(2) or WAC 173-360A-0820(2)	Decommissioning
Services involving corrosion protection		
Assessments of corrosion potential	WAC 173-360A-0310 (3)(c)	Corrosion expert
Designing cathodic protection systems	WAC 173-360A-0310 (3)(b) and WAC 173-360A-0300	Corrosion expert
Installing cathodic protection systems designed by corrosion expert	WAC 173-360A-0300	Installation/repair, corrosion expert, or cathodic protection tester (1)
Testing cathodic protection systems	WAC 173-360A-0430(2)	Corrosion expert or cathodic protection tester
Evaluating cathodic protection systems that are inadequately protecting tanks or piping based on results of cathodic protection tests or rectifier inspections	WAC 173-360A-0430(2) or WAC 173-360A-0430(3)	Corrosion expert
Specifying or designing repairs of cathodic protection systems, including rectifier adjustments	WAC 173-360A-0310 (3)(b) and WAC 173-360A-0490	Corrosion expert
Repairing cathodic protection systems, including making rectifier adjustments, specified or designed by corrosion expert	WAC 173-360A-0490	Installation/repair, corrosion expert, or cathodic protection tester (1)

Footnotes: (1) Cathodic protection testers may not perform the specified UST system services unless the cathodic protection testers are certified by the International Code Council.

NEW SECTION

WAC 173-360A-0930 Certification of service providers. Owners and operators shall ensure that service providers performing UST system services are certified in accordance with the requirements of this section.

(1) **Installation and repair.** To perform or directly supervise UST system services requiring certification in installation and repair, a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (UST Installation/Retrofitting - U1);

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination; or

(c) Passing another qualifying examination approved by the department.

(2) **Tightness testing.** To perform or directly supervise UST system services requiring certification in tightness test-

ing, a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (UST Tank Tightness Testing - U3);

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination; or

(c) Passing another qualifying examination approved by the department.

(3) **Site assessment.** To perform or directly supervise UST system services requiring certification in site assessment, a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (Washington State Site Assessment - U7);

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination;

(c) Passing another qualifying examination approved by the department; or

(d) Being licensed as a professional engineer or hydrogeologist in Washington state under chapter 18.43 or 18.220 RCW and being able to demonstrate competence in site assessment by means of examination, experience, or education.

(4) **Decommissioning.** To perform or directly supervise UST system services requiring certification in decommissioning, a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (UST Decommissioning - U2);

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination; or

(c) Passing another qualifying examination approved by the department.

(5) **Corrosion expert.** To perform or directly supervise UST system services requiring certification as a corrosion expert, as defined in WAC 173-360A-0150(13), a service provider must be certified as having sufficient education and experience by:

(a) The National Association of Corrosion Engineers;

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination;

(c) Passing another qualifying examination approved by the department; or

(d) Being licensed as a professional engineer in Washington state under chapter 18.43 RCW and certified as cathodic protection tester under subsection (6) of this section.

(6) **Cathodic protection tester.** To perform or directly supervise UST system services requiring certification as a cathodic protection tester, as defined in WAC 173-360A-0150(4), a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (UST Cathodic Protection - U4);

(b) The National Association of Corrosion Engineers;

(c) The Steel Tank Institute;

(d) Another nationally or internationally recognized association approved by the department that provides a qualifying examination; or

(e) Passing another qualifying examination approved by the department.

NEW SECTION

WAC 173-360A-0940 Responsibilities of service providers. Service providers shall comply with the requirements of this section.

(1) Certification and records.

(a) Service providers must be certified to perform or directly supervise the performance of UST system services in accordance with WAC 173-360A-0920 and 173-360A-0930.

(b) Service providers shall maintain proof that they are certified to perform or directly supervise the performance of UST system services under WAC 173-360A-0920 and 173-360A-0930, such as licenses or certificates, and make such

proof readily available for inspection upon request by the department.

(2) **Performance of services.** Services providers shall perform or directly supervise the performance of UST system services in accordance with the requirements of this chapter and any other legally applicable requirements, including:

(a) Chapters 18.27 RCW and 296-200A WAC, which apply to individuals who are general and specialty contractors;

(b) Chapters 18.104 RCW and 173-162 WAC, which apply to individuals who install groundwater monitoring wells;

(c) Chapters 19.28 RCW and 296-46B WAC, which apply to individuals who install and repair impressed current cathodic protection systems; and

(d) Chapters 49.17 RCW and 296-62 and 296-802 WAC, which apply to individuals engaged in activities involving hazardous chemicals and substances and who perform confined space entry during field activities, and chapter 296-155 WAC, which sets forth safety standards for construction work.

(3) **Presence during services.** Service providers must be present at the UST facility when and where UST system services are performed, including during the activities specified in this subsection.

(a) When installing tanks or piping, services providers must be present when:

(i) Preparing the excavation zone immediately before receiving backfill and placing the tanks or piping into the excavation zone;

(ii) Any movement of the tanks at the UST facility, including transferring the tanks from the vehicle used to transport them to the facility;

(iii) Setting the tanks or piping into the excavation zone, including placing any anchoring devices or strapping, and backfilling to the level of the tank or piping;

(iv) Placing and connecting the piping to tanks or dispensers;

(v) Pressure testing the tanks or piping during installation; and

(vi) Completing the backfill and filling of the excavation zone.

(b) When decommissioning tanks or piping runs undergoing permanent closure or a change-in-service, services providers must be present when:

(i) Purging or inerting the tanks or piping;

(ii) Excavating around the tanks or piping before removal;

(iii) Removing the tanks from the excavation zone;

(iv) Removing or capping the piping;

(v) Cleaning the tanks, including removing and disposing of any accumulated sludge; and

(vi) Undertaking any movement of the tanks at the UST facility, including transferring tanks to the vehicle used to transport them from the facility.

(c) Tanks and piping runs undergoing permanent closure may not be removed from the ground unless both the service provider decommissioning the tanks or piping runs and the service provider performing the site assessment are present.

(4) **Documenting services.** Service providers shall document the UST system services specified in WAC 173-360A-0230(3) by completing the applicable checklists and reports required under this chapter.

(5) **Reporting noncompliance.** If a service provider determines that an UST system for which they are providing services is not in compliance with the requirements of this chapter, then the service provider shall notify the owner or operator of the determination within twenty-four hours.

(6) **Reporting confirmed releases.** If a service provider confirms a release from an UST system that may pose a threat to human health or the environment, then the service provider shall notify:

(a) The owner or operator of the UST system immediately; and

(b) The department within twenty-four hours. However, if an owner or operator of the UST system is not immediately available, the service provider shall notify the department immediately.

(7) **Enforcement and penalties.** Service providers who violate the requirements of this chapter or submit false information under this chapter are subject to enforcement and civil penalties under WAC 173-360A-0270 and 173-360A-0290.

PART 10

FINANCIAL RESPONSIBILITY

NEW SECTION

WAC 173-360A-1000 Applicability. (1) This part applies to owners and operators of all UST systems except as otherwise provided in this section.

(2) This part does not apply to owners and operators of any exempt UST system described in WAC 173-360A-0110(1).

(3) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this part.

(4) If the owner and operator of an UST system are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance.

NEW SECTION

WAC 173-360A-1005 Definition of terms. For the purposes of this part, the following definitions shall apply unless the context clearly indicates otherwise.

(1) **"Accidental release"** means any sudden or nonsudden release of regulated substances arising from operating an underground storage tank that results in a need for remedial action and/or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

(2) **"Bodily injury"** shall have the meaning given to this term by applicable state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

(3) **"Chief financial officer,"** in the case of local government owners and operators, means the individual with the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

(4) **"Controlling interest"** means direct ownership of at least fifty percent of the voting stock of another entity.

(5) **"Financial reporting year"** means the latest consecutive twelve-month period for which any of the following reports used to support a financial test is prepared: (a) A 10-K report submitted to the U.S. Securities and Exchange Commission; (b) an annual report of tangible net worth submitted to Dun and Bradstreet; or (c) annual reports submitted to the Energy Information Administration or the Rural Utilities Service. "Financial reporting year" may thus comprise a fiscal or a calendar year period.

(6) **"Legal defense cost"** means any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought:

(a) By the U.S. Environmental Protection Agency or a state to require remedial action or to recover the costs of remedial action;

(b) By or on behalf of a third party for bodily injury or property damage caused by an accidental release; or

(c) By any person to enforce the terms of a financial assurance mechanism.

(7) **"Local government"** shall have the meaning given this term by applicable state law and includes Indian tribes. The term is generally intended to include:

(a) Counties, municipalities, townships, separately chartered and operated special districts (including local government public transit systems and redevelopment authorities), and independent school districts authorized as governmental bodies by state charter or constitution; and

(b) Special districts and independent school districts established by counties, municipalities, townships, and other general purpose governments to provide essential services.

(8) **"Occurrence"** means an accident, including continuous or repeated exposure to conditions, which results in a release from an underground storage tank. This definition is intended to assist in the understanding of this part and is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence."

(9) **"Owner or operator,"** means, for the purposes of this part, when the owner or operator are separate parties, the party that is responsible for obtaining or has obtained financial assurances.

(10) **"Petroleum marketing facilities"** means all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

(11) **"Property damage"** shall have the meaning given this term by applicable state law. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include remedial action associated with releases from underground storage tanks which are covered by the policy.

(12) "**Provider of financial assurance**" means an entity that provides financial assurance to an owner or operator of an underground storage tank through one of the mechanisms listed in WAC 173-360A-1060 through 173-360A-1073, including a guarantor, insurer, risk retention group, surety, or issuer of a letter of credit.

(13) "**Substantial business relationship**" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.

(14) "**Substantial governmental relationship**" means the extent of a governmental relationship necessary under applicable state law to make an added guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from a clear commonality of interest in the event of an underground storage tank release such as coterminous boundaries, overlapping constituencies, common groundwater aquifer, or other relationship other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.

(15) "**Tangible net worth**" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(16) "**Termination**" under WAC 173-360A-1082 and 173-360A-1083 means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

NEW SECTION

WAC 173-360A-1010 Period of financial responsibility. (1) **General requirement.** Except as provided in subsection (2) of this section, an owner or operator shall continuously demonstrate financial responsibility for an UST system from the date of its installation until the date of its permanent closure or change-in-service.

(2) **Suspension during temporary closure.** An owner or operator is not required to demonstrate financial responsibility for an UST system while it is temporarily closed if:

(a) The UST system is emptied in accordance with WAC 173-360A-0800(2); and

(b) After the UST system is emptied, a site assessment around the UST system is completed and reported in accordance with WAC 173-360A-0730. Unless otherwise directed by the department, a site assessment is not required if:

(i) A release from the UST system had previously been confirmed and reported to the department; and

(ii) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4).

NEW SECTION

WAC 173-360A-1015 Scope and amount of financial responsibility. (1) **Scope.** Owners or operators of underground storage tanks shall demonstrate financial responsibility for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks.

(2) **Amount.**

(a) **Per occurrence amounts.** Owners or operators of underground storage tanks shall demonstrate financial responsibility for the types of coverage specified in subsection (1) of this section in at least the following per-occurrence amounts:

(i) For owners or operators of underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than ten thousand gallons of regulated substances per month based on annual throughput for the previous calendar year, one million dollars; and

(ii) For all other owners or operators of underground storage tanks, five hundred thousand dollars.

(b) **Annual aggregate amounts.** Owners or operators of underground storage tanks shall demonstrate financial responsibility for the types of coverage specified in subsection (1) of this section in at least the following annual aggregate amounts:

(i) For owners or operators of one to one hundred underground storage tanks, one million dollars; and

(ii) For owners or operators of one hundred one or more underground storage tanks, two million dollars.

(c) **Use of separate mechanisms for different types of coverage.** Except as provided in (d) of this subsection, if the owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for the following, then the amount of assurance provided by each mechanism or combination of mechanisms shall be in the full amount specified in (a) and (b) of this subsection:

(i) Taking remedial action;

(ii) Compensating third parties for bodily injury and property damage caused by sudden accidental releases; or

(iii) Compensating third parties for bodily injury and property damage caused by nonsudden accidental releases.

(d) **Use of separate mechanisms for different tanks.** If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different underground storage tanks, then the annual aggregate amount required shall be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.

(e) **Review of aggregate amounts.** Owners or operators shall review the amount of aggregate assurance provided whenever additional underground storage tanks are acquired or installed. If the number of underground storage tanks for which assurance must be provided exceeds one hundred, the owner or operator shall demonstrate financial responsibility in the amount of at least two million dollars of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being demonstrated by a combina-

tion of mechanisms, the owner or operator shall demonstrate financial responsibility in the amount of at least two million dollars of annual aggregate assurance by the first-occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.

(f) **Amounts exclude legal costs.** The amounts of assurance required under this section exclude legal defense costs.

(g) For the purposes of (b) and (e) of this subsection only, "an underground storage tank" means a single containment unit and does not mean combinations of single containment units.

(3) **Liability of owner or operator.** The scope and amount of required financial responsibility specified in subsections (1) and (2) of this section do not in any way limit the liability of the owner or operator.

NEW SECTION

WAC 173-360A-1020 Allowable mechanisms and combinations of mechanisms. (1) For all owners or operators. Subject to the limitation of subsection (3) of this section, an owner or operator, including a local government owner or operator, may use any one or combination of the mechanisms listed in WAC 173-360A-1060 through 173-360A-1066 to demonstrate financial responsibility under this part for one or more underground storage tanks.

(2) **For only local governments owners or operators.** Subject to the limitation of subsection (3) of this section, a local government owner or operator may also use any one or combination of the mechanisms listed in WAC 173-360A-1070 through 173-360A-1073 to demonstrate financial responsibility under this part for one or more underground storage tanks.

(3) **Limitation on combining self-insurance and guarantee.** An owner or operator may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this rule, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

NEW SECTION

WAC 173-360A-1025 Substitution of mechanisms by owners or operators. (1) Authority. An owner or operator may substitute any alternate financial assurance mechanisms as specified in this part, provided that at all times the owner or operator maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of WAC 173-360A-1015.

(2) **Cancellation.** After obtaining alternate financial assurance as specified in this part, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance in accordance with requirements for cancellation set forth for the specific mechanism in WAC 173-360A-1060 through 173-360A-1073.

NEW SECTION

WAC 173-360A-1030 Termination of mechanisms by providers. (1) Authority. Except as otherwise provided, a

provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator.

(2) Date of termination.

(a) **Guarantee, surety bond, or letter of credit.** Termination of a local government guarantee, a guarantee, a surety bond, or a letter of credit may not occur until one hundred twenty days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

(b) **Insurance or risk retention group coverage.** Termination of insurance or risk retention group coverage, except for nonpayment or misrepresentation by the insured, may not occur until sixty days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination for nonpayment of premium or misrepresentation by the insured may not occur until a minimum of ten days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

(3) Obtaining alternate coverage.

(a) **If provider incapacitated.** If a provider of financial assurance cancels or fails to renew for reasons of incapacity of the provider, then the owner or operator shall obtain alternate coverage as specified in WAC 173-360A-1035.

(b) **If provider not incapacitated.** If a provider of financial assurance cancels or fails to renew for reasons other than incapacity of the provider, then the owner or operator shall obtain alternate coverage as specified in this section within sixty days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within sixty days after receipt of the notice of termination, then by that date the owner or operator shall notify the department of the failure and submit:

(i) The name and address of the provider of financial assurance;

(ii) The effective date of termination; and

(iii) The evidence of the financial assurance mechanism subject to the termination maintained in accordance with WAC 173-360A-1040(2).

NEW SECTION

WAC 173-360A-1035 Responsibilities upon bankruptcy or other incapacity of owner or operator or provider of financial assurance. (1) Notifying department upon bankruptcy of owners or operators. Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator shall notify the department by certified mail of such commencement and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

(2) **Notifying owners or operators upon bankruptcy of guarantor.** Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor shall notify the owner or operator by certified mail of such commencement as required

under the terms of the guarantee specified in WAC 173-360A-1061.

(3) Notifying department upon bankruptcy of local government owner or operator. Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a local government owner or operator as debtor, the local government owner or operator must notify the department by certified mail of such commencement and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

(4) Notifying owners or operators upon bankruptcy of guarantor providing local government assurance.

Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing a local government financial assurance as debtor, such guarantor must notify the local government owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in WAC 173-360A-1072.

(5) Obtaining alternate financial assurance upon bankruptcy or incapacity of provider. An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator shall obtain alternate financial assurance as specified in this part within thirty days after receiving notice of such an event. If the owner or operator fails to obtain alternate coverage within thirty days after such notification, then by that date the owner or operator shall notify the department of the failure and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

NEW SECTION

WAC 173-360A-1040 Recordkeeping by owners and operators. **(1) Requirement to maintain evidence.** Owners or operators shall maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this part for an underground storage tank until released from the requirements of this part under WAC 173-360A-1010. Owners or operators shall make records readily available upon request by the department.

(2) Types of evidence required. An owner or operator shall maintain the following types of evidence of financial responsibility:

(a) Certification of financial responsibility. An owner or operator using an assurance mechanism specified in WAC 173-360A-1060 through 173-360A-1073 shall maintain an updated copy of a certification of financial responsibility worded as set forth in WAC 173-360A-1096, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. The owner or operator shall update this certification whenever the financial assur-

ance mechanism(s) used to demonstrate financial responsibility change(s).

(b) Assurance mechanism instrument. An owner or operator using an assurance mechanism specified in WAC 173-360A-1060 through 173-360A-1065 or 173-360A-1070 through 173-360A-1073 shall maintain a copy of the instrument worded as specified.

(c) An owner or operator using a financial test or guarantee shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence shall be on file no later than one hundred twenty days after the close of the financial reporting year.

(d) An owner or operator using an insurance policy or risk retention group coverage shall maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements.

(e) An owner or operator using a guarantee, surety bond, or letter of credit shall maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

(f) A local government owner or operator using the local government bond rating test under WAC 173-360A-1070 shall maintain a copy of its bond rating published within the last twelve months by Moody's or Standard & Poor's.

(g) A local government owner or operator using the local government financial test under WAC 173-360A-1071 or the local government guarantee under WAC 173-360A-1072 supported by the local government financial test shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence shall be on file no later than one hundred twenty days after the close of the financial reporting year.

(h) A local government owner or operator using the local government guarantee under WAC 173-360A-1072 supported by the local government bond rating test under WAC 173-360A-1070 shall maintain a copy of the guarantor's bond rating published within the last twelve months by Moody's or Standard & Poor's.

(i) A local government owner or operator using the local government guarantee under WAC 173-360A-1072 (4)(a) shall maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

(j) An owner or operator using a local government fund under WAC 173-360A-1073 shall maintain the following documents:

(i) A copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund; and

(ii) Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under WAC 173-360A-1073 (3)(c) using incremental funding backed by bonding authority, then the financial statements must show the previous year's balance, the amount of funding during the year, and the closing balance in the fund.

(k) An owner or operator using a local government fund established under WAC 173-360A-1073 (3)(c) using incre-

mental funding backed by bonding authority shall also maintain documentation of the required bonding authority, including either:

- (i) The results of a voter referendum under WAC 173-360A-1073 (3)(c)(i); or
- (ii) Attestation by the state attorney general as specified under WAC 173-360A-1073 (3)(c)(ii).

NEW SECTION

WAC 173-360A-1045 Reporting by owners and operators. (1) **Demonstration of financial responsibility.**

(a) **Upon application for a license.** When applying for a license for an underground storage tank, the owner or operator must submit to the department of revenue a copy of the following to demonstrate financial responsibility for the underground storage tank:

- (i) Certification of financial responsibility (WAC 173-360A-1096); and

(ii) If the financial assurance mechanisms used include insurance or risk retention group coverage, then the endorsement (WAC 173-360A-1082) or certificate of insurance (WAC 173-360A-1083).

(b) **Upon renewal or substitution of financial assurances.** Upon renewal or substitution of, or any other changes to, the financial assurance mechanism(s) used to demonstrate financial responsibility, the owner or operator shall immediately submit to the department of revenue an updated copy of the following:

- (i) Certification of financial responsibility (WAC 173-360A-1096); and

(ii) If the financial assurance mechanism(s) used include insurance or risk retention group coverage, then the endorsement (WAC 173-360A-1082) or certificate of insurance (WAC 173-360A-1083).

(c) **Upon cancellation or termination of financial assurances.** Upon receipt of a notice of cancellation or termination of any financial assurance mechanism used to demonstrate financial responsibility, the owner or operator shall immediately submit a copy of the notice to the department of revenue.

(2) Submission of financial responsibility records.

(a) **Upon confirmed release.** An owner or operator shall submit to the department the financial responsibility records specified in WAC 173-360A-1040(2) within thirty days after the owner or operator confirms a release from an underground storage tank required to be reported under WAC 173-360A-0750.

(b) **Upon bankruptcy of owner or operator.** An owner or operator shall submit to the department the financial responsibility records specified in WAC 173-360A-1040(2) within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor.

(c) **Upon failure of owner or operator to obtain alternate coverage.**

(i) **Upon failure to pass financial test.** If a self-insured owner or operator fails to meet the requirements of the applicable financial test in WAC 173-360A-1060 and fails to obtain alternate coverage by the specified date, then by that

date the owner or operator shall notify the department of the failure and submit the financial responsibility records specified in WAC 173-360A-1040(2).

(ii) **Upon failure to pass local government bond rating or financial test.** If a self-insured local government owner or operator fails to meet the bond rating test requirements in WAC 173-360A-1070 or the financial test requirements in WAC 173-360A-1071 and fails to obtain alternate coverage by the specified date, then by that date the local government owner or operator shall notify the department of the failure and submit the financial responsibility records specified in WAC 173-360A-1040(2).

(iii) **Upon incapacity of provider.** If an owner or operator fails to obtain alternate coverage within thirty days after receiving notice of the following, then by that date the owner or operator shall notify the department of the failure and submit the financial responsibility records specified in WAC 173-360A-1040(2):

(A) Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor;

(B) Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism;

(C) Failure of a guarantor to meet the requirements of WAC 173-360A-1061;

(D) Failure of a local government guarantor to meet the requirements of WAC 173-360A-1072; or

(E) Other incapacity of a provider of financial assurance.

(iv) **Upon other termination by provider.** If a provider cancels or fails to renew a financial assurance mechanism for reasons other than incapacity and the owner or operator fails to obtain alternate coverage within sixty days after receiving notice of termination by the provider, then by that date the owner or operator shall notify the department of the failure and submit the information required in WAC 173-360A-1030 (3)(b).

(3) **Requests by department.** The department may require an owner or operator to submit the financial responsibility records specified in WAC 173-360A-1040(2) or other information relevant to compliance with this part at any time.

NEW SECTION

WAC 173-360A-1050 Use of standby trusts. (1) **Funding of trust.** Except as specified in WAC 173-360A-1055, the department shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the department, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if:

(a) The following conditions are satisfied:

(i) The owner or operator fails to establish alternate financial assurance within sixty days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and

(ii) The department determines or suspects that a release from an underground storage tank covered by the mechanism has occurred and so notifies the owner or operator or the owner or operator has notified the department pursuant to

Part 7 of this chapter of a release from an underground storage tank covered by the mechanism; or

(b) The conditions of subsection (2)(a), (b)(i) or (ii) of this section are satisfied.

(2) **Drawing on trust.** The department may draw on a standby trust fund when:

(a) The department makes a final determination that a release has occurred and immediate or long-term remedial action for the release is needed, and the owner or operator, after appropriate notice and opportunity to comply, has not conducted remedial action as required under WAC 173-360A-0750; or

(b) The department has received either:

(i) Certification from the owner or operator and the third-party liability claimant(s) and from attorneys representing the owner or operator and the third-party liability claimant(s) that a third-party liability claim should be paid. The certification shall be worded as set forth in WAC 173-360A-1097, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted; or

(ii) A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank covered by financial assurance under this part and the department determines that the owner or operator has not satisfied the judgment.

(3) **Priority of payments.** If the department determines that the amount of remedial action costs and third-party liability claims eligible for payment under subsection (2) of this section may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be remedial action costs necessary to protect human health and the environment. The department shall pay third-party liability claims in the order in which the department receives certifications under subsection (2)(b)(i) of this section and valid court orders under subsection (2)(b)(ii) of this section.

(4) Replenishment of mechanisms.

(a) **General.** If at any time after a standby trust is funded upon the instruction of the department with funds drawn from a guarantee, local government guarantee with standby trust, letter of credit, or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, then the owner or operator shall by the anniversary date of the financial mechanism from which the funds were drawn:

(i) Replenish the value of financial assurance to equal the full amount of coverage required under WAC 173-360A-1015(2); or

(ii) Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

(b) **Combination of mechanisms.** If a combination of mechanisms was used to provide the assurance funds which were drawn upon, then the owner or operator shall take the actions required under (a)(i) or (ii) of this subsection by the earliest anniversary date among the mechanisms.

(5) **Refunding of trust balance to providers.** The department will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the department determines that no additional remedial action

costs or third-party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.

NEW SECTION

WAC 173-360A-1055 Use of local government guarantees without standby trusts. A governmental entity acting as guarantor without a standby trust under WAC 173-360A-1072 (4)(c) or (d) shall make payments as directed by the department under the circumstances described in WAC 173-360A-1050 (1) through (3).

NEW SECTION

WAC 173-360A-1060 Mechanism—Financial test of self-insurance. (1) **Applicability of mechanism.** An owner or operator, and/or guarantor, may satisfy the requirements of WAC 173-360A-1015 by passing a financial test as specified in this section.

(2) **Financial test requirements.** To pass the financial test of self-insurance, the owner or operator, and/or guarantor shall meet the criteria of (a) or (b) of this subsection based on year-end financial statements for the latest completed fiscal year.

(a) First test.

(i) The owner or operator, and/or guarantor, must have a tangible net worth of at least ten times:

(A) The total of the applicable aggregate amount required by WAC 173-360A-1015, based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility to the department under this section;

(B) The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test is used to demonstrate financial responsibility to the U.S. Environmental Protection Agency (EPA) under 40 C.F.R. Parts 264.101, 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 or to a state agency under a state program authorized by EPA under Part 271; and

(C) The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to the U.S. Environmental Protection Agency (EPA) under 40 C.F.R. Part 144.63 or to a state agency under a state program authorized by EPA under 40 C.F.R. Part 145.

Note: Titles of the above-referenced C.F.R. citations are as follows:
 Part 264.101 - Corrective action for solid waste management units; Part 264.143 - Financial assurance for closure; Part 264.145 - Financial assurance for post-closure care; Part 265.143 - Financial assurance for closure; Part 265.145 - Financial assurance for post-closure care; Part 264.147 - Liability requirements; Part 265.147 - Liability requirements; Part 144.63 - Financial assurance for plugging and abandonment; and Part 145 - State UIC program requirements.

(ii) The owner or operator, and/or guarantor, must have a tangible net worth of at least ten million dollars.

(iii) The owner or operator, and/or guarantor, shall have a letter signed by the chief financial officer as specified in

subsection (3) of this section and as set forth in WAC 173-360A-1080.

(iv) The owner or operator, and/or guarantor, shall either:

(A) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Utilities Service; or

(B) Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.

(v) The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

(b) Second test.

(i) The owner or operator, and/or guarantor shall meet the financial test requirements of 40 C.F.R. 264.147(f)(1), substituting the appropriate amounts specified in WAC 173-360A-1015 (2)(b)(i) and (ii) for the "amount of liability coverage" each time specified in that section.

(ii) The fiscal year-end financial statements of the owner or operator, and/or guarantor, shall be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

(iii) The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

(iv) The owner or operator, and/or guarantor, shall have a letter signed by the chief financial officer, worded as specified in subsection (3) of this section and as set forth in WAC 173-360A-1080.

(v) If the financial statements of the owner or operator, and/or guarantor, are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Utilities Service, the owner or operator, and/or guarantor, shall obtain a special report by an independent certified public accountant stating that:

(A) He or she has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or operator, and/or guarantor, with the amounts in such financial statements; and

(B) In connection with that comparison, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(3) **Letter from chief financial officer.** To demonstrate that it meets the financial test under subsection (2)(a) or (b) of this section, the chief financial officer of the owner or operator, and/or guarantor, shall sign, within one hundred twenty days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as set forth in WAC 173-360A-1080, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(4) **Obtaining alternate coverage if fail test.** If an owner or operator using the test to provide financial assurance finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator shall obtain alternate coverage within

one hundred fifty days of the end of the year for which financial statements have been prepared.

(5) Requests by department and findings of failure.

The department may require reports of financial condition at any time from the owner or operator, and/or guarantor. If the department finds, on the basis of such reports or other information, that the owner or operator, and/or guarantor, no longer meets the financial test requirements of subsection (2)(a) or (b) and (3) of this section, the owner or operator shall obtain alternate coverage within thirty days after notification of such a finding.

(6) Notification of department if fail to obtain alternate coverage. If the owner or operator fails to obtain alternate coverage within one hundred fifty days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within thirty days of notification by the department that he or she no longer meets the requirements of the financial test, then by that date the owner or operator shall notify the department of such failure and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

NEW SECTION

WAC 173-360A-1061 Mechanism—Guarantee.

(1) Applicability of mechanism. An owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining a guarantee that conforms to the requirements of this section.

(2) Eligibility of guarantor. The guarantor shall be:

(a) A firm that:

(i) Possesses a controlling interest in the owner or operator;

(ii) Possesses a controlling interest in a firm described under (a)(i) of this subsection; or

(iii) Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator; or

(b) A firm engaged in a substantial business relationship with the owner or operator and issuing the guarantee as an act incident to that business relationship.

(3) Financial test of guarantor. Within one hundred twenty days of the close of each financial reporting year the guarantor shall demonstrate that it meets the financial test criteria of WAC 173-360A-1060 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in WAC 173-360A-1060(3) and shall deliver the letter to the owner or operator.

(4) Responsibilities upon failure of test. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within one hundred twenty days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. If the department notifies the guarantor that the guarantor no longer meets the requirements of the financial test of WAC 173-360A-1060 (2)(a) or (b) and (3), the guarantor shall notify the owner or operator within ten days of receiving such notification from the department. In both cases, the guarantee will terminate no less than one hundred twenty days after the

date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator shall obtain alternate coverage as specified in WAC 173-360A-1035(5).

(5) **Content of guarantee.** The guarantee shall be worded as set forth in WAC 173-360A-1081, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(6) **Standby trust.** An owner or operator who uses a guarantee to satisfy the requirements of WAC 173-360A-1015 shall establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the department under WAC 173-360A-1050. This standby trust fund shall meet the requirements specified in WAC 173-360A-1066.

NEW SECTION

WAC 173-360A-1062 Mechanism—Insurance and risk retention group coverage. (1) **Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining liability insurance that conforms to the requirements of this section from a qualified insurer or risk retention group. Such insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

(2) **Eligibility of provider.** Each insurance policy shall be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states.

(3) **Content of policy.** Each insurance policy shall be amended by an endorsement worded as specified in WAC 173-360A-1082 or evidenced by a certificate of insurance worded as specified in WAC 173-360A-1083, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted. Each insurance policy must cover a claim arising from an accidental release arising from the operation of underground storage tanks, regardless of how the release was discovered or identified. No endorsement may amend an insurance policy to restrict coverage of such a claim based on the how the release was discovered or identified.

NEW SECTION

WAC 173-360A-1063 Mechanism—Surety bond. (1) **Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining a surety bond that conforms to the requirements of this section.

(2) **Eligibility of surety.** The surety company issuing the bond shall be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury.

(3) **Content of surety bond.** The surety bond shall be worded as set forth in WAC 173-360A-1084, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted.

(4) **Liability of surety.** Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.

(5) **Standby trust.** The owner or operator who uses a surety bond to satisfy the requirements of WAC 173-360A-1015 shall establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the department under WAC 173-360A-1050. This standby trust fund shall meet the requirements specified in WAC 173-360A-1066.

NEW SECTION

WAC 173-360A-1064 Mechanism—Letter of credit.

(1) **Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section.

(2) **Eligibility of issuing institution.** The issuing institution shall be an entity that has the authority to issue letters of credit in Washington state and whose letter-of-credit operations are regulated and examined by a federal or state agency.

(3) **Content of letter of credit.** The letter of credit shall be worded as set forth in WAC 173-360A-1085, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(4) **Term of letter of credit.** The letter of credit shall be irrevocable with a term specified by the issuing institution. The letter of credit shall provide that credit be automatically renewed for the same term as the original term, unless, at least one hundred twenty days before the current expiration date, the issuing institution notifies the owner or operator by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the one hundred twenty days will begin on the date when the owner or operator receives the notice, as evidenced by the return receipt.

(5) **Standby trust.** An owner or operator who uses a letter of credit to satisfy the requirements of WAC 173-360A-1015 shall also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the department will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the department under WAC 173-360A-1050. This standby trust fund shall meet the requirements specified in WAC 173-360A-1066.

NEW SECTION

WAC 173-360A-1065 Mechanism—Trust fund

(1) **Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by establishing a trust fund that conforms to the requirements of this section.

(2) **Eligibility of trustee.** The trustee shall be an entity that has the authority to act as a trustee and whose trust oper-

ations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

(3) **Content of trust agreement.** The wording of the trust agreement shall be identical to the wording specified in WAC 173-360A-1086, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(4) **Certification of acknowledgment.** The trust agreement shall be accompanied by a formal certification of acknowledgment worded as specified in WAC 173-360A-1087, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(5) **Amount of required funding.** The trust fund, when established, shall be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining required coverage.

(6) Release of excess funds.

(a) Requests.

(i) If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the department for release of the excess.

(ii) If other financial assurance as specified in this part is substituted for all or part of the trust fund, the owner or operator may submit a written request to the department for release of the excess.

(b) **Response by department.** Within sixty days after receiving a request from the owner or operator for release of funds as specified in (a)(i) or (ii) of this subsection, the department will instruct the trustee to release to the owner or operator such funds as the department specifies in writing.

NEW SECTION

WAC 173-360A-1066 Mechanism—Standby trust fund. (1) **Applicability of mechanism.** An owner or operator using any one of the mechanisms authorized by WAC 173-360A-1061, 173-360A-1063, or 173-360A-1064 shall establish a standby trust fund when the mechanism is acquired.

(2) **Eligibility of trustee.** The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

(3) **Content of trust agreement.** The standby trust agreement or trust agreement shall be worded as set forth in WAC 173-360A-1086, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(4) **Certification of acknowledgment.** The standby trust agreement or trust agreement shall be accompanied by a formal certification of acknowledgment worded as specified in WAC 173-360A-1087, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(5) **Use of trust as depository for multiple assurances.** An owner or operator may establish one trust fund as the

depository mechanism for all funds assured in compliance with this rule.

NEW SECTION

WAC 173-360A-1070 Mechanism—Local government bond rating test. (1) **Applicability of mechanism.** A local government owner or operator and/or local government serving as a guarantor may satisfy the requirements of WAC 173-360A-1015 by meeting the bond rating test requirements in subsection (2) of this section.

(2) Bond rating test requirements.

(a) **General purpose local governments.** To pass the bond rating test, a general purpose local government owner or operator and/or local government must have a currently outstanding issue or issues of general obligation bonds of one million dollars or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Moody's and Standard & Poor's, the lowest rating must be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

(b) **Nongeneral purpose local governments.** To pass the bond rating test, a local government owner or operator or local government that is not a general-purpose local government and does not have the legal authority to issue general obligation bonds must have a currently outstanding issue or issues of revenue bonds of one million dollars or more, excluding refunded issues, and by also having a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB as the lowest rating for any rated revenue bond issued by the local government. Where bonds are rated by both Moody's and Standard & Poor's, the lower rating for each bond must be used to determine eligibility. Bonds that are backed by credit enhancement may not be considered in determining the amount of applicable bonds outstanding.

(3) Letter from chief financial officer.

(a) **General purpose local governments.** To demonstrate that it meets the local government bond rating test, the chief financial officer of a general purpose local government owner or operator and/or guarantor must sign a letter worded exactly as specified in WAC 173-360A-1088, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(b) **Nongeneral purpose local governments.** To demonstrate that it meets the local government bond rating test, the chief financial officer of local government owner or operator and/or guarantor other than a general purpose government must sign a letter worded exactly as specified in WAC 173-360A-1089, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(4) **Maintaining records of bond rating.** The local government owner or operator and/or guarantor must maintain a copy of its bond rating published within the last twelve months by Moody's or Standard & Poor's.

(5) Obtaining alternate coverage if fail test. If a local government owner or operator using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, then the local government owner or operator shall obtain alternate coverage within one hundred fifty days of the change in status.

(6) Requests by department and findings of failure. The department may require reports of financial condition at any time from the local government owner or operator, and/or local government guarantor. If the department finds, on the basis of such reports or other information, that the local government owner or operator, and/or guarantor, no longer meets the local government bond rating test requirements of this section, the local government owner or operator must obtain alternate coverage within thirty days after notification of such a finding.

(7) Notification of department if fail to obtain alternate coverage. If a local government owner or operator fails to obtain alternate coverage within one hundred fifty days of finding that it no longer meets the requirements of the bond rating test or within thirty days of notification by the department that it no longer meets the requirements of the bond rating test, then by that date the owner or operator shall notify the department of such failure and submit the evidence of financial responsibility specified in WAC 173-360A-1040 (2).

NEW SECTION

WAC 173-360A-1071 Mechanism—Local government financial test. **(1) Applicability of mechanism.** A local government owner or operator may satisfy the requirements of WAC 173-360A-1015 by passing the financial test specified in this section.

(2) Eligibility requirements. To be eligible to use the financial test, the local government owner or operator must have the ability and authority to assess and levy taxes or to freely establish fees and charges.

(3) Financial test requirements. To pass the local government financial test, the owner or operator must meet the following criteria based on year-end financial statements for the latest completed fiscal year:

(a) The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion;

(b) The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade; and

(c) The local government owner or operator must have a letter signed by the chief financial officer worded as specified in WAC 173-360A-1090.

(4) Financial information requirements. The local government owner or operator must have the following information available, as shown in the year-end financial statements for the latest completed fiscal year:

(a) **Total revenues**, consisting of the sum of general fund operating and nonoperating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales (property, publications, etc.), intergov-

ernmental revenues (restricted and unrestricted), and total revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers), liquidation of investments, and issuance of debt;

(b) **Total expenditures**, consisting of the sum of general fund operating and nonoperating expenditures including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers);

(c) **Local revenues**, consisting of total revenues (as defined in (a) of this subsection) minus the sum of all transfers from other governmental entities, including all monies received from federal, state, or local government sources;

(d) **Debt service**, consisting of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations. Includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and interest bearing warrants. Excludes payments on noninterest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments;

(e) **Total funds**, consisting of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. Includes federal securities, federal agency securities, state and local government securities, and other securities such as bonds, notes and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other nonsecurity assets; and

(f) **Population**, consisting of the number of people in the area served by the local government.

(5) Letter from chief financial officer. To demonstrate that it meets the financial test under subsection (3) of this section, the chief financial officer of the local government owner or operator, must sign, within one hundred twenty days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as specified in WAC 173-360A-1090, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(6) Obtaining alternate coverage if fail test. If a local government owner or operator using the test to provide financial assurance finds that it no longer meets the requirements

of the financial test based on the year-end financial statements, the owner or operator must obtain alternate coverage within one hundred fifty days of the end of the year for which financial statements have been prepared.

(7) Requests by department and findings of failure. The department may require reports of financial condition at any time from the local government owner or operator. If the department finds, on the basis of such reports or other information, that the local government owner or operator no longer meets the financial test requirements of subsection (3) of this section, the owner or operator must obtain alternate coverage within thirty days after notification of such a finding.

(8) Notification of department if fail to obtain alternate coverage. If a local government owner or operator fails to obtain alternate coverage within one hundred fifty days of finding that it no longer meets the requirements of the financial test based on the year-end financial statements or within thirty days of notification by the department that it no longer meets the requirements of the financial test, then by that date the owner or operator shall notify the department of such failure and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

NEW SECTION

WAC 173-360A-1072 Mechanism—Local government guarantee. (1) **Applicability of mechanism.** A local government owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining a guarantee that conforms to the requirements of this section.

(2) **Eligibility of guarantor.** The guarantor must be either the state in which the local government owner or operator is located or a local government having a "substantial governmental relationship" with the owner and operator and issuing the guarantee as an act incident to that relationship.

(3) **Test of guarantor.** A local government acting as the guarantor shall:

(a) Demonstrate that it meets the bond rating test requirements of WAC 173-360A-1070 and deliver a copy of the chief financial officer's letter as required in WAC 173-360A-1070(3) to the local government owner or operator;

(b) Demonstrate that it meets the financial test requirements of WAC 173-360A-1071 and deliver a copy of the chief financial officer's letter as required in WAC 173-360A-1071(5) to the local government owner or operator; or

(c) Demonstrate that it meets the local government fund requirements of WAC 173-360A-1073 and deliver a copy of the chief financial officer's letter as required in WAC 173-360A-1073(4) to the local government owner or operator.

(4) **Content of guarantee.** The content of the guarantee depends on whether the guarantor is a state or a local government and whether the guarantor guarantees to fund a standby trust.

(a) If the guarantor is a state and, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the department, then the guarantee must be worded as specified in WAC 173-360A-1091, except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

(b) If the guarantor is a local government and, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the department, then the guarantee must be worded as specified in WAC 173-360A-1092, except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

(c) If the guarantor is a state and, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the department for taking remedial action or compensating third parties for bodily injury and property damage, then the guarantee must be worded as specified in WAC 173-360A-1093, except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

(d) If the guarantor is a local government and, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the department for taking remedial action or compensating third parties for bodily injury and property damage, then the guarantee must be worded as specified in WAC 173-360A-1094, except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

(5) **Responsibilities upon failure of test.** If the local government guarantor is unable to demonstrate financial assurance under WAC 173-360A-1070, 173-360A-1071, or 173-360A-1073, at the end of the financial reporting year, then the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than one hundred twenty days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator shall obtain alternate coverage as specified in WAC 173-360A-1035(5).

NEW SECTION

WAC 173-360A-1073 Mechanism—Local government fund. (1) **Applicability of mechanism.** A local government owner or operator may satisfy the requirements of WAC 173-360A-1015 by establishing a dedicated fund account that conforms to the requirements of this section.

(2) **Restrictions on commingled funds.** Except as specified in subsection (3)(b) of this section, a dedicated fund may not be commingled with other funds or otherwise used in normal operations.

(3) **Local government fund requirements.** To be considered eligible, a dedicated fund must meet one of the following requirements:

(a) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks and is funded for the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage;

(b) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking remedial action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks, and is funded for five times the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage. If the fund is funded for less than five times the amount of coverage required under WAC 173-360A-1015, the amount of financial responsibility demonstrated by the fund may not exceed one-fifth the amount in the fund; or

(c) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks. A payment must be made to the fund once every year for seven years until the fund is fully funded. This seven year period is hereafter referred to as the "pay-in-period." Equation 1073-1 must be used to determine the amount of each payment; and

Equation 1073-1	
Payment amount =	$\frac{TY - CF}{Y}$
Where:	
TY =	The total required financial assurance for the owner or operator
CF =	The current amount in the fund
Y =	Number of years remaining in the pay period

(i) The local government owner or operator has available bonding authority, approved through voter referendum (if such approval is necessary prior to the issuance of bonds), for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority shall be available for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks; or

EPA Regulations

Closure (264.143 and 265.143)	\$ _____
Post-Closure Care (264.145 and 265.145)	\$ _____
Liability Coverage (264.147 and 265.147)	\$ _____
Corrective Action (264.101(b))	\$ _____
Plugging and Abandonment (144.63)	\$ _____

Authorized State Programs

Closure	\$ _____
Post-Closure Care	\$ _____
Liability Coverage	\$ _____

(ii) The local government owner or operator has a letter signed by the appropriate state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter must also state that prior voter approval is not necessary before use of the bonding authority.

(4) **Letter from chief financial officer.** To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator and/or guarantor must sign a letter worded exactly as specified in WAC 173-360A-1095, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

NEW SECTION

WAC 173-360A-1080 Appendix A—Letter from chief financial officer.

I am the chief financial officer of [insert: name and address of the owner or operator, or guarantor]. This letter is in support of the use of [insert: "the financial test of self-insurance," and/or "guarantee"] to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert: "owner or operator," and/or "guarantor"]: [List for each facility: The name and address of the facility where tanks assured by this financial test are located, and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200.]

A [insert: "financial test," and/or "guarantee"] is also used by this [insert: "owner or operator," or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under other U.S. Environmental Protection Agency (EPA) regulations or state programs authorized by EPA under 40 C.F.R. Parts 271 and 145:

	Amount
Closure (264.143 and 265.143)	\$ _____
Post-Closure Care (264.145 and 265.145)	\$ _____
Liability Coverage (264.147 and 265.147)	\$ _____
Corrective Action (264.101(b))	\$ _____
Plugging and Abandonment (144.63)	\$ _____

	Amount
Closure	\$ _____
Post-Closure Care	\$ _____
Liability Coverage	\$ _____

Plugging and Abandonment	\$ _____
Total	\$ _____

This [insert: "owner or operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of WAC 173-360A-1060 (2)(a) are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of WAC 173-360A-1060 (2)(b) are being used to demonstrate compliance with the financial test requirements.]

Alternative I

1.	Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee	\$ _____
2.	Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee	\$ _____
3.	Sum of lines 1 and 2	\$ _____
4.	Total tangible assets	\$ _____
5.	Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6]	\$ _____
6.	Tangible net worth [subtract line 5 from line 4]	\$ _____
7.	Is line 6 at least \$10 million?	Yes <input type="checkbox"/> No <input type="checkbox"/>
8.	Is line 6 at least 10 times line 3?	Yes <input type="checkbox"/> No <input type="checkbox"/>
9.	Have financial statements for the latest fiscal year been filed with the U.S. Securities and Exchange Commission?	Yes <input type="checkbox"/> No <input type="checkbox"/>
10.	Have financial statements for the latest fiscal year been filed with the Energy Information Administration?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11.	Have financial statements for the latest fiscal year been filed with the Rural Utilities Service?	Yes <input type="checkbox"/> No <input type="checkbox"/>
12.	Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met]	Yes <input type="checkbox"/> No <input type="checkbox"/>

Alternative II

1.	Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee	\$ _____
2.	Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee	\$ _____
3.	Sum of lines 1 and 2	\$ _____
4.	Total tangible assets	\$ _____
5.	Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6]	\$ _____
6.	Tangible net worth [subtract line 5 from line 4]	\$ _____
7.	Total assets in the U.S. [required only if less than 90 percent of assets are located in the U.S.]	\$ _____
8.	Is line 6 at least \$10 million?	Yes <input type="checkbox"/> No <input type="checkbox"/>
9.	Is line 6 at least 6 times line 3?	Yes <input type="checkbox"/> No <input type="checkbox"/>
10.	Are at least 90 percent of assets located in the U.S.? [If "No," complete line 11]	Yes <input type="checkbox"/> No <input type="checkbox"/>
11.	Is line 7 at least 6 times line 3?	Yes <input type="checkbox"/> No <input type="checkbox"/>

[Fill in either lines 12-15 or lines 16-18:]

12.	Current assets	\$ _____
13.	Current liabilities	\$ _____
14.	Net working capital [subtract line 13 from line 12]	\$ _____
15.	Is line 14 at least 6 times line 3?	Yes <input type="checkbox"/> No <input type="checkbox"/>
16.	Current bond rating of most recent bond issue	_____

17.	Name of rating service	<hr/>	
18.	Date of maturity of bond	<hr/>	
19.	Have financial statements for the latest fiscal year been filed with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Utilities Service? [If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year.]	Yes <hr/>	No <hr/>

[For both Alternative I and Alternative II complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in WAC 173-360A-1080 as such regulations were constituted on the date shown immediately below.

[Signature]
[Name]
[Title]
[Date]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1081 Appendix B—Guarantee.

Guarantee made this [date] by name of guaranteeing entity, a business entity organized under the laws of (name of state), herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obligees, on behalf of [owner or operator] of [business address].

Recitals

1. Guarantor meets or exceeds the financial test criteria of WAC 173-360A-1060 (2)(a) or (b) and (3) and agrees to comply with the requirements for guarantors as specified in WAC 173-360A-1061(3).

2. [Owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies the requirements of Part 10 of chapter 173-360A WAC for assuring funding for [insert: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

3. [Insert appropriate phrase: "On behalf of our subsidiary" (if Guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if Guarantor is a related firm

of the owner or operator); or "Incident to our business relationship with" (if Guarantor is providing the Guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], Guarantor guarantees to the Washington State Department of Ecology and to any and all third parties that:

a. In the event that [owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon instructions from the Department, shall fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor, upon written instructions from the Department, shall fund a standby trust in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, shall fund a standby trust in accordance with the provisions of WAC 173-360A-1050 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees that if, at the end of any fiscal year before cancellation of this Guarantee, the Guarantor fails to meet the financial test criteria of WAC 173-360A-1060 (2)(a) or (b) and (3), Guarantor shall send within 120 days of such failure, by certified mail, notice to [owner or operator]. The Guarantee will terminate 120 days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming Guarantor as debtor, within 10 days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any

obligation of [owner or operator] pursuant to chapter 173-360A WAC.

7. Guarantor agrees to remain bound under this Guarantee for so long as [owner or operator] shall comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above-identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

8. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

9. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1081 as such regulations were constituted on the effective date shown immediately below.

Effective date:

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1082 Appendix C—Endorsement.

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:

Period of Coverage: [current policy period]

Policy Retroactive Date:

Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:

Address of Insured:

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.]

for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental release"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (e) of this Paragraph 2 are hereby amended to conform with subsections (a) through (e):

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this endorsement is attached.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of remedial action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in WAC 173-360A-1060 through 173-360A-1065 and 173-360A-1070 through 173-360A-1073.

c. Whenever requested by the Washington State Department of Ecology, the ["Insurer" or "Group"] agrees to furnish to the Department a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for nonpayment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured. Cancellation for nonpayment of premium or misrepresentation by the insured will be effective only upon written

notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or nonrenewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in WAC 173-360A-1082 and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states"].

[Signature of Authorized Representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

Endorsement Holder:

Business Licensing Service

P.O. Box 9034

Olympia, WA 98507-9034

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1083 Appendix D—Certificate of insurance.

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:

Endorsement (if applicable):

Period of Coverage: [current policy period]

Policy Retroactive Date:

Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:

Address of Insured:

Certification:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the

notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.]

for [insert: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of remedial action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in WAC 173-360A-1060 through 173-360A-1065 and 173-360A-1070 through 173-360A-1073.

c. Whenever requested by the Washington State Department of Ecology, the ["Insurer" or "Group"] agrees to furnish the Department a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for nonpayment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured. Cancellation for nonpayment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or nonrenewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period

are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in WAC 173-360A-1083 and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states"].

[Signature of Authorized Representative of Insurer]

[Type name]

[Title], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

Certificate Holder:

Business Licensing Service

P.O. Box 9034

Olympia, WA 98507-9034

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1084 Appendix E—Performance bond.

Date bond executed:

Period of coverage:

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation (if applicable):

Surety(ies): [name(s) and business address(es)]

Scope of coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility. List the coverage guaranteed by the bond: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank".]

Penal sums of bond:

Per occurrence \$

Annual aggregate \$

Surety's bond number:

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the Washington State Department of Ecology, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other

purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under the Solid Waste Disposal Act, as amended, and chapter 90.76 RCW to provide financial assurance for [insert: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above; and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully ["take remedial action, in accordance with WAC 173-360A-0750 and the Washington State Department of Ecology's instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in Part 10 of chapter 173-360A WAC, within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

(1) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(2) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(3) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(4) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank;

(5) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Washington State Department of Ecology that the Principal has failed to ["take remedial action, in accordance with WAC 173-360A-0750 and the Department's instructions" and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform ["remedial action in accordance with WAC 173-360A-0750 and the Department's instructions" and/or

"third-party liability compensation"] or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the Department under WAC 173-360A-1050.

Upon notification by the Department that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the Department has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the Department under WAC 173-360A-1050.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the principal, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the principal, as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In witness thereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in WAC 173-360A-1084 as such regulations were constituted on the date this bond was executed.

Principal

[Signature(s)]
[Name(s)]
[Title(s)]
[Corporate seal]

Corporate Surety(ies)

[Name and address]
[State of incorporation:]
[Liability limit: \$]
[Signature(s)]
[Name(s) and title(s)]
[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for surety above.]

Bond premium: \$

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1085 Appendix F—Irrevocable standby letter of credit.

[Name and address of issuing institution]

[Name and address of the Washington State Department of Ecology]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of [in words] U.S. dollars (\$[insert dollar amount]), available upon presentation of:

(1) Your sight draft, bearing reference to this letter of credit, No.; and

(2) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Solid Waste Disposal Act, as amended, and chapter 90.76 RCW."

This letter of credit may be drawn on to cover [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] \$[insert dollar amount] per occurrence and [in words] \$[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

(a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator]

is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in WAC 173-360A-1085 as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1086 Appendix G—Trust agreement.

Trust agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a Washington state [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of Washington" or "a national bank"], the "Trustee."

Whereas, the Department of Ecology, "Ecology", an agency of the state of Washington, has established certain regulations applicable to the grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for remedial action and third-party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the underground storage tank. The attached Schedule A lists the number of tanks at each facility and the name(s) and addresses of the facility(ies) where the tanks are located that are covered by the [insert "standby" where trust agreement is standby trust agreement] trust agreement.

[Whereas, the Grantor has elected to establish [insert either "a guarantee," "surety bond," or "letter of credit"] to provide all or part of such financial assurance for the underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument (This paragraph is only applicable to the standby trust agreement.)];

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions.

As used in this Agreement:

(1) The term "Grantor" means the owner or operator who enters into this agreement and any successors or assigns of the Grantor.

(2) The term "Trustee" means the Trustee who enters into this agreement and any successor Trustee.

Section 2. Identification of the Financial Assurance Mechanism.

This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement.)].

Section 3. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the "fund," for the benefit of the Washington State Department of Ecology. The Grantor and the Trustee intend that no third party have access to the fund except as herein provided. [The fund is established initially as a standby to receive payments and shall not consist of any property.] Payments made by the provider of financial assurance pursuant to the Washington State Department of Ecology's instruction are transferred to the Trustee and are referred to as the fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The fund shall be held by the Trustee, IN TRUST, as thereafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the Washington State Department of Ecology.

Section 4. Payment for ["Remedial Action" and/or "Third-Party Liability Claims"].

The trustee shall make payments from the fund as the Washington State Department of Ecology shall direct, in writing, to provide for the payment of the costs of [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tanks covered by the financial assurance mechanism identified in this Agreement.

The fund may not be drawn upon to cover any of the following:

(a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

The Trustee shall reimburse the Grantor, or other persons as specified by the Department from the fund for remedial action expenditures and/or third-party liability claims in such amounts as the Department shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Department specifies in writing. Upon refund, such funds shall no longer constitute part of the fund as defined herein.

Section 5. Payments Comprising the Fund.

Payments made to the Trustee for the fund shall consist of cash and securities acceptable to the Trustee.

Section 6. Trustee Management.

The Trustee shall invest and reinvest the principal and income of the fund and keep the fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2(1), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b) The Trustee is authorized to invest the fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment.

The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the fund to any common, commingled, or collective trust fund created by the Trustee in which the fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15

U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee.

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the fund;

(d) To deposit any cash in the fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the fund.

Section 9. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the fund and all brokerage commissions incurred by the fund shall be paid from the fund. All other expenses incurred by the Trustee in connection with the administration of this trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the fund.

Section 10. Advice of Counsel.

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 11. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 12. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in *Section 9*.

Section 13. Instructions to the Trustee.

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Washington State Department of Ecology to the Trustee shall be in writing, signed by the Department, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Department, hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Department, except as provided for herein.

Section 14. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the Washington State Department of Ecology, if the Grantor ceases to exist.

Section 15. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 14, this trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the Washington State Department of Ecology, if the Grantor ceases to exist. Upon termination of the trust, all remaining trust prop-

erty, less final trust administration expenses, shall be delivered to the Grantor.

Section 16. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this trust, or in carrying out any directions by the Grantor or the Washington State Department of Ecology, issued in accordance with this agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 17. Choice of Law.

This Agreement shall be administered, construed, and enforced according to the laws of the state of Washington, or the Comptroller of the Currency in the case of National Association banks.

Section 18. Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in WAC 173-360A-1086 as such regulations were constituted on the date written above.

[Signature of Grantor]

[Name of the Grantor]

[Title]

Attest:

[Signature of Trustee]

[Name of the Trustee]

[Title]

[Seal]

Attest:

[Signature of Witness]

[Name of Witness]

[Title]

[Seal]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION**WAC 173-360A-1087 Appendix H—Certification of acknowledgment.**

State of Washington

County of

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that she/he signed her/his name thereto by like order.

[Signature of notary public]

[Name of notary public]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Issue date	Maturity date	Outstanding amount	Bond Rating	Rating Agency
				[Moody's or Standard & Poor's]

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in WAC 173-360A-1088 as such regulations were constituted on the date shown immediately below.

[Date]

[Signature]

[Name]

[Title]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION**WAC 173-360A-1089 Appendix J—Local government bond rating test—Letter from chief financial officer of non-general purpose local governments.**

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor].

NEW SECTION**WAC 173-360A-1088 Appendix I—Local government bond rating test—Letter from chief financial officer of general purpose local governments.**

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue date	Maturity date	Outstanding amount	Bond Rating	Rating Agency
[Moody's or Standard & Poor's]				

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding revenue bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. The revenue bonds listed are not backed by third-party credit enhancement or insured by a municipal bond insurance company. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in WAC 173-360A-1089 as such regulations were constituted on the date shown immediately below.

[Date]
 [Signature]
 [Name]
 [Title]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1090 Appendix K—Local government financial test—Letter from chief financial officer.

I am the chief financial officer of [insert: name and address of the owner or operator]. This letter is in support of the use of the local government financial test to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating [an] underground storage tank[s].

Underground storage tanks at the following facilities are assured by this financial test [List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200.]

This owner or operator has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of Aaa, AA, A, or Baa or a Standard & Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa,

Aa, A, or Baa and a Standard & Poor's rating of AAA, AA, A, or BBB.

Worksheet for Municipal Financial Test Part I - Basic Information

1. Total Revenues

a. Revenues (dollars): _____
 Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and non-operating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity.

b. Subtract interfund transfers (dollars): _____

c. Total Revenues (dollars): _____

2. Total Expenditures

a. Expenditures (dollars): _____
 Value consists of the sum of general fund operating and non-operating expenditures including interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues.

b. Subtract interfund transfers (dollars): _____

c. Total Expenditures (dollars): _____

3. Local Revenues

a. Total Revenues (from 1c) (dollars): _____
 b. Subtract total intergovernmental transfers (dollars): _____

c. Local Revenues (dollars): _____

4. Debt Service

a. Interest and fiscal charges (dollars): _____

b. Add debt retirement (dollars): _____

c. Total Debt Service (dollars): _____

5. Total Funds (Dollars): _____
 Sum of amounts held as cash and investment securities from all funds, excluding amounts held for employee retirement funds, agency funds, and trust funds.

6. Population (Persons): _____

Part II - Application of Test

7. Total Revenues to Population

a. Total Revenues (from 1c): _____

b. Population (from 6): _____

c. Divide 7a by 7b: _____

d. Subtract 417: _____

e. Divide by 5,212: _____

f. Multiply by 4.095: _____

8. Total Expenses to Population

a. Total Expenses (from 2c): _____

b. Population (from 6): _____

c. Divide 8a by 8b: _____

d. Subtract 524: _____

e. Divide by 5,401: _____

f. Multiply by 4.095: _____

9. Local Revenues to Total Revenues

- a. Local Revenues (from 3c): _____
 b. Total Revenues (from 1c): _____
 c. Divide 9a by 9b: _____
 d. Subtract 0.695: _____
 e. Divide by 0.205: _____
 f. Multiply by 2.840: _____
 10. Debt Service to Population
 a. Debt Service (from 4c): _____
 b. Population (from 6): _____
 c. Divide 10a by 10b: _____
 d. Subtract 51: _____
 e. Divide by 1,038: _____
 f. Multiply by -1.866: _____
 11. Debt Service to Total Revenues
 a. Debt Service (from 4c): _____
 b. Total Revenues (from 1c): _____
 c. Divide 11a by 11b: _____
 d. Subtract 0.068: _____
 e. Divide by 0.259: _____
 f. Multiply by -3.533: _____
 12. Total Revenues to Total Expenses
 a. Total Revenues (from 1c): _____
 b. Total Expenses (from 2c): _____
 c. Divide 12a by 12b: _____
 d. Subtract 0.910: _____
 e. Divide by 0.899: _____
 f. Multiply by 3.458: _____
 13. Funds Balance to Total Revenues
 a. Total Funds (from 5): _____
 b. Total Revenues (from 1c): _____
 c. Divide 13a by 13b: _____
 d. Subtract 0.891: _____
 e. Divide by 9.156: _____
 f. Multiply by 3.270: _____
 14. Funds Balance to Total Expenses
 a. Total Funds (from 5): _____
 b. Total Expenses (from 2c): _____
 c. Divide 14a by 14b: _____
 d. Subtract 0.866: _____
 e. Divide by 6.409: _____
 f. Multiply by 3.270: _____
 15. Total Funds to Population
 a. Total Funds (from 5): _____
 b. Population (from 6): _____
 c. Divide 15a by 15b: _____
 d. Subtract 270: _____
 e. Divide by 4,548: _____
 f. Multiply by 1.866: _____
 16. Add 7f + 8f + 9f + 10f + 11f + 12f + 13f + 14f + 15f
 + 4.937: _____

I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in WAC 173-360A-1090 as such regulations were constituted on the date shown immediately below.

[Date]
 [Signature]
 [Name]
 [Title]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1091 Appendix L—Local government guarantee with standby trust made by a state.

Guarantee made this [date] by [name of state], herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

1. Guarantor is a state.

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies requirements of Part 10 of chapter 173-360A WAC for assuring funding for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

3. Guarantor guarantees to the Washington State Department of Ecology and to any and all third parties that:

a. In the event that [local government owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon instructions from the Department shall fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [local government owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor upon written instructions from the Department shall fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or

alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, shall fund a standby trust in accordance with the provisions of WAC 173-360A-1050 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming Guarantor as debtor, within 10 days after commencement of the proceeding.

5. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 173-360A WAC.

6. Guarantor agrees to remain bound under this Guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

7. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

8. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1091 as such regulations were constituted on the effective date shown immediately below.

Effective date: _____

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1092 Appendix M—Local government guarantee with standby trust made by a local government.

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

1. Guarantor meets or exceeds [select one: the local government bond rating test requirements of WAC 173-360A-1070, the local government financial test requirements of WAC 173-360A-1071, or the local government fund requirements of WAC 173-360A-1073].

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies the requirements of Part 10 of chapter 173-360A WAC for assuring funding for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Incident to our substantial governmental relationship with [local government owner or operator], Guarantor guarantees to Washington State Department of Ecology and to any and all third parties that:

a. In the event that [local government owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon instructions from the Department shall fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [local government owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor upon written instructions from the

Department shall fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, shall fund a standby trust in accordance with the provisions of WAC 173-360A-1050 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees that, if at the end of any fiscal year before cancellation of this Guarantee, the Guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), Guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming Guarantor as debtor, within 10 days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 173-360A WAC.

7. Guarantor agrees to remain bound under this Guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

8. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

9. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1092 as such regulations were constituted on the effective date shown immediately below.

Effective date: _____

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1093 Appendix N—Local government guarantee without standby trust made by a state.

Guarantee made this [date] by [name of state], herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

1. Guarantor is a state.

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies the requirements of Part 10 of chapter 173-360A WAC for assuring funding for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Guarantor guarantees to the Washington State Department of Ecology and to any and all third parties and obliges that:

a. In the event that [local government owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon written instructions from the Department shall make funds available

to pay for remedial actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [local government owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor upon written instructions from the Department shall make funds available to pay for remedial actions in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming Guarantor as debtor, within 10 days after commencement of the proceeding.

5. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 173-360A WAC.

6. Guarantor agrees to remain bound under this Guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the Guarantor agrees to remain bound to the terms of this Guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the Guarantee with respect to future releases.

7. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

8. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1093 as such regulations were constituted on the effective date shown immediately below.

Effective date: _____

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1094 Appendix O—Local government guarantee without standby trust made by a local government.

Guarantee made this [date] by [name of guaranteee entity], a local government organized under the laws of [name of state], herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

1. Guarantor meets or exceeds [select one: the local government bond rating test requirements of WAC 173-360A-1070, the local government financial test requirements of WAC 173-360A-1071, or the local government fund requirements of WAC 173-360A-1073].

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies the requirements of Part 10 of chapter 173-360A WAC for assuring funding for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: _____].

dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Incident to our substantial governmental relationship with [local government owner or operator], Guarantor guarantees to the Washington State Department of Ecology and to any and all third parties and obliges that:

a. In the event that [local government owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon written instructions from the Department shall make funds available to pay for remedial actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [local government owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor upon written instructions from the Department shall make funds available to pay for remedial actions in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

4. Guarantor agrees that if at the end of any fiscal year before cancellation of this Guarantee, the Guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), Guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming Guarantor as debtor, within 10 days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 173-360A WAC.

7. Guarantor agrees to remain bound under this Guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a prob-

able release, the Guarantor agrees to remain bound to the terms of this Guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the Guarantee with respect to future releases.

8. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

9. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1094 as such regulations were constituted on the effective date shown immediately below.

Effective date: _____

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1095 Appendix P—Local government fund—Letter from chief financial officer.

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the local government fund mechanism to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this local government fund mechanism: [List for each facility: the name and address of the facility where tanks are assured by the local government fund].

[Insert: "The local government fund is funded for the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage," or "The local government fund is funded for five times the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanisms(s) that provide the remaining coverage," or "A payment is made to the fund once every year for seven years until the fund is fully funded and [name of local government owner or operator] has available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund" or "A payment is made to the fund once every year for seven years until the fund is fully funded and I have attached a letter signed by the State Attorney General stating that (1) the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws and (2) that prior voter approval is not necessary before use of the bonding authority"].

The details of the local government fund are as follows:

Amount in Fund (market value of fund at close of last fiscal year): _____

[If fund balance is incrementally funded as specified in WAC 173-360A-1073 (3)(c), insert: Amount added to fund in the most recently completed fiscal year: _____]

Number of years remaining in the pay-in period: _____

A copy of the state constitutional provision, or local government statute, charter, ordinance or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in WAC 173-360A-1095 as such regulations were constituted on the date shown immediately below.

[Date]
[Signature]
[Name]
[Title]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1096 Appendix Q—Certification of financial responsibility.

[Owner or operator] hereby certifies that it is in compliance with the requirements of Part 10 of chapter 173-360A WAC.

The financial assurance mechanism[s] used to demonstrate financial responsibility under Part 10 of chapter 173-360A WAC is [are] as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases."]

[Signature of owner or operator]
[Name of owner or operator]
[Title]
[Date]
[Signature of witness or notary]
[Name of witness or notary]
[Date]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-360A-1097 Appendix R—Certification of valid claim.

The undersigned, as principals and as legal representatives of [insert owner or operator] and [insert name and address of third-party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the amount of \$[____].

[Signatures]
Owner or Operator
Attorney for Owner or Operator
(notary)
Date

[Signature(s)]
Claimant(s)
Attorney(s) for Claimant(s)
(notary)
Date

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 173-360-100 Purpose and authority.

WAC 173-360-105 Intergovernmental agreements.

WAC 173-360-110 Applicability, exemptions, and deferrals.

WAC 173-360-120 Definitions.

WAC 173-360-130 Tank permits and delivery of regulated substances.

WAC 173-360-140 Investigation and access.

- WAC 173-360-150 Compliance monitoring.
- WAC 173-360-160 Enforcement.
- WAC 173-360-165 Delivery prohibition.
- WAC 173-360-170 Penalties.
- WAC 173-360-180 Public participation and information sharing.
- WAC 173-360-190 Annual tank fees.
- WAC 173-360-200 Notification requirements.
- WAC 173-360-210 Reporting and recordkeeping requirements.
- WAC 173-360-300 Performance standards for deferred UST systems.
- WAC 173-360-305 Performance standards for new UST systems.
- WAC 173-360-310 Upgrading requirements for existing UST systems.
- WAC 173-360-315 Spill and overfill control requirements.
- WAC 173-360-320 Operation and maintenance of corrosion protection.
- WAC 173-360-323 Compatibility.
- WAC 173-360-325 Repairs of UST systems.
- WAC 173-360-330 Release detection compliance schedule.
- WAC 173-360-335 Release detection for petroleum UST systems.
- WAC 173-360-340 Release detection for hazardous substance UST systems.
- WAC 173-360-345 Methods of release detection for tanks.
- WAC 173-360-350 Methods of release detection for piping.
- WAC 173-360-355 Release detection recordkeeping.
- WAC 173-360-360 Reporting of suspected releases.
- WAC 173-360-365 Investigation due to offsite impacts.
- WAC 173-360-370 Release investigation and confirmation steps.
- WAC 173-360-372 Reporting of confirmed releases.
- WAC 173-360-375 Cleanup and reporting of spills and overfills.
- WAC 173-360-380 Temporary closure of UST systems.
- WAC 173-360-385 Permanent closure and change-in-service.
- WAC 173-360-390 Site assessment at closure or change-in-service.
- WAC 173-360-395 Applicability to previously closed UST systems.
- WAC 173-360-398 Closure records.
- WAC 173-360-399 Corrective action requirements.
- WAC 173-360-400 Applicability.
- WAC 173-360-403 Compliance dates.
- WAC 173-360-406 Amount and scope of required financial responsibility.
- WAC 173-360-410 Allowable mechanisms and combinations of mechanisms.
- WAC 173-360-413 Financial test of self-insurance.
- WAC 173-360-416 Guarantee.
- WAC 173-360-420 Insurance and risk retention group coverage.
- WAC 173-360-423 Surety bond.
- WAC 173-360-426 Letter of credit.
- WAC 173-360-433 Trust fund.
- WAC 173-360-436 Standby trust fund.
- WAC 173-360-440 Substitution of financial assurance mechanisms by owner or operator.
- WAC 173-360-443 Cancellation or nonrenewal by a provider of financial assurance.
- WAC 173-360-446 Reporting by owner or operator.
- WAC 173-360-450 Recordkeeping.
- WAC 173-360-453 Drawing on financial assurance mechanisms.
- WAC 173-360-456 Release from the requirements.
- WAC 173-360-460 Bankruptcy or other incapacity of owner or operator.
- WAC 173-360-463 Replenishment of guarantees, letters of credit, or surety bonds.
- WAC 173-360-466 Suspension of enforcement.
- WAC 173-360-470 Appendix A—Letter from chief financial officer.
- WAC 173-360-473 Appendix B—Guarantee.
- WAC 173-360-476 Appendix C—Endorsement.
- WAC 173-360-480 Appendix D—Certificate of insurance.
- WAC 173-360-483 Appendix E—Performance bond.
- WAC 173-360-486 Appendix F—Irrrevocable standby letter of credit.
- WAC 173-360-490 Appendix G—Trust agreement.
- WAC 173-360-493 Appendix H—Certification of acknowledgment.
- WAC 173-360-496 Appendix I—Certification of financial responsibility.
- WAC 173-360-499 Appendix J—Certification of valid claim.
- WAC 173-360-500 Local delegation of underground storage tank programs.
- WAC 173-360-510 Environmentally sensitive areas.
- WAC 173-360-520 Physical criteria for environmentally sensitive areas.

- WAC 173-360-530 Application for designation of environmentally sensitive area and approval of local regulations.
- WAC 173-360-600 Purpose of Part VI.
- WAC 173-360-610 Scope.
- WAC 173-360-620 Types of certifications.
- WAC 173-360-630 Responsibilities of certified UST supervisors.
- WAC 173-360-670 Penalties.
- WAC 173-360-700 Purpose and applicability.
- WAC 173-360-710 Designation of operators.
- WAC 173-360-720 Timing of operator training.
- WAC 173-360-730 Training requirements for operators.
- WAC 173-360-740 Retraining requirements for Class A and Class B operators.
- WAC 173-360-745 Operation and maintenance plans.
- WAC 173-360-750 Emergency response requirements.
- WAC 173-360-760 Documentation and recordkeeping.
- WAC 173-360-800 Purpose and applicability.
- WAC 173-360-810 Secondary containment of tanks.
- WAC 173-360-820 Secondary containment of piping.
- WAC 173-360-830 Under-dispenser containment.

WSR 18-03-183
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed January 24, 2018, 10:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-15-128.

Title of Rule and Other Identifying Information: WAC 415-02-150 How is regular interest awarded and credited to Plan 1 and Plan 2 accounts?

Hearing Location(s): On February 27, 2018, at 2:00 p.m., at the Department of Retirement Systems, Conference Room 115, 6835 Capitol Boulevard S.E., Tumwater, WA 98502.

Date of Intended Adoption: February 28, 2018.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, email Rules@drs.wa.gov, by February 26, 2018.

Assistance for Persons with Disabilities: Contact Jilene Siegel, phone 360-664-7291, TTY 711, email Rules@drs.wa.gov, by February 22, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The legislature delegated to the department of retirement systems the authority to determine the regular interest credited to individual members' pension accounts. With the exception of the Wash-

ington state patrol retirement system (WSPRS), this policy is currently, and has been since the director adopted it in 1977, to credit regular interest quarterly at the rate of 5.5 percent per year. At the end of each quarter, regular interest is calculated based on the balance in the member's account at the end of the prior quarter.

In *Fowler v. Department of Retirement Systems*, the court of appeals held that the policy could not be applied to transfers from teachers' retirement system (TRS) Plan 2 to Plan 3 because there was no evidence that the department had considered other policies. The court remanded to the department the determination of the policy for the calculation of regular interest for many of the accounts containing funds that were transferred from TRS Plan 2 to Plan 3. The statutes governing regular interest for the TRS Plan 2 accounts that were transferred to Plan 3 are analogous to the statutes governing regular interest on all Plan 1 and Plan 2 pension plans administered by the department. Therefore, the policy adopted will be applied to all individual accounts, and not just to those that were transferred to TRS Plan 3.

The department reviewed alternative methods, and determined that applying regular interest to members' accounts quarterly based on the balance at the end of the previous quarter is the preferred approach. The new rule will apply retroactively to November 3, 1977, to all Plan 1 and Plan 2 individual accounts in the public employees' retirement system, teachers' retirement system, law enforcement officers' and firefighters' retirement system, school employees' retirement system, and public safety employees' retirement system, and prospectively for WSPRS Plan 1 and Plan 2.

Reasons Supporting Proposal: The methodology provides regular interest crediting to the members and supports the goals of a defined benefit plan. Regular interest is to help ensure that individuals who are mandated into membership in one of the public retirement systems are not harmed financially if they leave public employment and withdraw their pension contributions. However, the systems were not designed to create wealth for members who don't qualify for or who choose not to receive monthly pension payments.

The methodology adopted here accommodates the statutory schedule on which employers report contributions to the department and ensures that contributions have been credited to members' accounts before regular interest is calculated.

This rule will also bring the method for applying regular interest to WSPRS members' accounts into alignment with the other retirement systems.

Statutory Authority for Adoption: RCW 41.50.033, 41.50.050.

Statute Being Implemented: RCW 41.50.033.

Rule is necessary because of state court decision, *Probst v. Fowler v. Department of Retirement Systems*, 167 Wash. App. 180, 271 P.3d 966 (2012).

Name of Proponent: Department of retirement systems, governmental.

Name of Agency Personnel Responsible for Drafting: Johnna Craig, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7219; and **Implementation:** Seth Miller, Department of Retirement Sys-

tems, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7304.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not identified in RCW 34.05.328 as an agency that must submit a cost-benefit analysis.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Explanation of exemptions: Not applicable. This rule does not impact small businesses and is not being submitted by the state board of education.

January 24, 2018
Jilene Siegel
Rules Coordinator

NEW SECTION

WAC 415-02-150 How is regular interest awarded and credited to Plan 1 and Plan 2 accounts? (1) You are required to make contributions to your retirement plan each pay period.

(2) Your contributions are tracked in an individual account in your name.

(3) If the amount in your individual account on the last day of a quarter is more than zero dollars, the department will calculate an amount of regular interest to be credited to your account on the last day of the quarter using the following formula:

$$1/4 \times R \times B$$

Regular interest will be credited consistent with this subsection, whether or not you are in active service.

(a) In the formula in subsection (3) of this section, "R" represents the rate of regular interest. The director has the statutory authority to set the rate of regular interest. Consistent with that authority, the rate of regular interest is set at 5.5 percent per year, until changed by the director consistent with his or her discretionary authority.

(b) In the formula in subsection (3) of this section, "B" represents the balance in your individual account at the close of business on the last day of the prior quarter. "B" may be equal to zero dollars.

(4) The calculated amount of regular interest will be credited to your individual account on the last day of the quarter. The total amount in your individual account (i.e., all your member contributions plus all the regular interest that has been credited to the account) are your "accumulated contributions."

(5) Your individual account does not "earn" or accrue regular interest on a day by day basis.

(6) Example: Jon had \$50,000 in his PERS Plan 2 individual account at the end of the day on September 30, 2017 (the last day of the third quarter). He has \$50,200 in his PERS Plan 2 individual account on December 31, 2017, immedi-

ately before regular interest for fourth quarter is credited. For fourth quarter, the regular interest to be credited to his account is calculated as follows:

$$1/4 \times 5.5\% \times \$50,000 = \$687.50$$

This regular interest is credited to his individual account for a total of \$50,887.50 (\$50,200.00 + \$687.50) at the end of the day on December 31, 2017.

(a) If Jon transfers from PERS Plan 2 to PERS Plan 3 on January 25, 2018, he receives no additional regular interest for the period from January 1 through January 25.

(b) If Jon separates from service on February 15, 2018, and withdraws the amount in his individual account, he receives no additional regular interest for the period from January 1 through February 15.

(7) This rule applies retroactively to November 3, 1977, to all Plan 1 and Plan 2 individual accounts in the public employees' retirement system, teachers' retirement system, law enforcement officers' and fire fighters' retirement system, school employees' retirement system, and public safety employees' retirement system, and prospectively for the Washington state patrol retirement system Plan 1 and Plan 2.

WSR 18-03-185 PROPOSED RULES LIQUOR AND CANNABIS BOARD

[Filed January 24, 2018, 10:33 a.m.]

Supplemental Notice to WSR 17-21-113.

Preproposal statement of inquiry was filed as WSR 17-18-101.

Title of Rule and Other Identifying Information: WAC 314-12-146 Private label spirits.

Hearing Location(s): On March 7, 2018, at 10:00 a.m., at 3000 Pacific Avenue S.E., Olympia, WA.

Date of Intended Adoption: March 21, 2018.

Submit Written Comments to: Karen McCall, P.O. Box 43098, Olympia, WA 98504, email rules@lcb.wa.gov, fax 360-664-9689, by March 7, 2018.

Assistance for Persons with Disabilities: Contact Karen McCall, phone 360-664-1631, fax 360-664-9689, email rules@lcb.wa.gov, by March 7, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rules are needed to clarify the requirements for private label spirits between a spirits manufacturer and a spirits retailer.

Reasons Supporting Proposal: Stakeholders requested the board develop rules for this activity.

Statutory Authority for Adoption: RCW 66.08.030.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA, 360-664-1631; Implementation: Becky Smith, Licensing Director, 3000 Pacific Avenue S.E., Olym-

pia, WA, 360-664-1615; and Enforcement: Justin Nordhorn, Enforcement Chief, 3000 Pacific Avenue S.E., Olympia, WA, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs or reporting requirements to licensees.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. No costs or reporting requirements are required.

January 24, 2018
Jane Rushford
Chair

NEW SECTION

WAC 314-12-146 Private label spirits. Distillers, crafter distillers, spirit certificate of approval holders, and manufacturers of spirits may produce private label spirits for on-premises and off-premises spirits retailers under the following conditions:

(1) There may be no exclusivity between the producer and the retailer for the private label spirit product. The spirit product must be reasonably available to all spirits retailers licensed to sell spirits;

(2) A copy of the contract between the producer and the spirits retailer for all private label spirits products must be available to the board for inspection; and

(3) The distiller, craft distiller, spirit certificate of approval holder, or manufacturer of spirits must submit a TTB certificate of label approval for each private label produced to the board for review.

WSR 18-03-186
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed January 24, 2018, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-21-110.

Title of Rule and Other Identifying Information: WAC 314-12-085 Self-dispensing wine machines and self-service beer taps, the rule clarifies the requirements for on-premises liquor licensees that use self-dispensing wine machines and self-service beer taps.

Hearing Location(s): On March 7, 2018, at 10:00 a.m., at 3000 Pacific Avenue S.E., Olympia, WA, 98504.

Date of Intended Adoption: March 21, 2018.

Submit Written Comments to: Karen McCall, 3000 Pacific Avenue S.E., Olympia, WA 98504, email rules@lcb.wa.gov, fax 360-664-9689, by March 7, 2018.

Assistance for Persons with Disabilities: Contact Karen McCall, phone 360-664-1631, fax 360-664-9689, email rules@lcb.wa.gov, by March 7, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This new rule provides the requirements for on-premises liquor licensees that use self-dispensing wine machines and self-service beer taps.

Reasons Supporting Proposal: On-premises liquor licensees need to know the requirements for using self-dispensing wine machines and self-service beer taps on their licensed premises.

Statutory Authority for Adoption: RCW 66.08.030.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA, 360-664-1631; Implementation: Becky Smith, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA, 360-664-1615; and Enforcement: Justin Nordhorn, Enforcement Chief, 3000 Pacific Avenue S.E., Olympia, WA, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs or reporting requirements to licensees.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. No costs or reporting requirements are required.

January 24, 2018
Jane Rushford
Chair

NEW SECTION

WAC 314-12-085 Self-dispensing wine machines and self-service beer taps. (1) The requirements for an on-premises liquor licensee to use self-dispensing wine machines are as follows:

(a) The liquor licensee must maintain adequate staff to monitor for potential over service/consumption;

(b) Employees responsible for operating the self-dispensing machines must hold a class 12 or class 13 alcohol server permit;

(c) An employee must first check the customer's ID and check for signs of intoxication; and

(d) A service card to self-dispense must be purchased from an employee. The card may allow no more than a total of ten ounces dispensed in five ounce servings. No more than two cards may be purchased by any one customer at any time.

(2) The requirements for an on-premises liquor licensee to use self-service beer taps are as follows:

(a) The liquor licensee must maintain adequate staff to monitor for potential over service/consumption;

(b) Employees responsible for operating the self-service beer taps must hold a class 12 or class 13 alcohol server permit;

(c) An employee must first check the customer's ID and check for signs of intoxication prior to activating the system;

(d) The system must be programmed to automatically deactivate after the beer has been dispensed;

(e) The amount of beer purchased by any one customer at one time is twenty-four ounces dispensed in twelve ounce servings.

(f) Employees must have the ability to deactivate the system both at the table and remotely, which allows the employee to control the amount of beer dispensed at all times.

**WSR 18-03-187
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD**

[Filed January 24, 2018, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-24-031.

Title of Rule and Other Identifying Information: WAC 314-11-025 What are the forms of acceptable identification?

Hearing Location(s): On March 7, 2018, at 10:00 a.m., at 3000 Pacific Avenue S.E., Olympia, WA.

Date of Intended Adoption: March 21, 2018.

Submit Written Comments to: Karen McCall, P.O. Box 43098, Olympia, WA 98504, email rules@lcb.wa.gov, fax 360-664-9689, by March 7, 2018.

Assistance for Persons with Disabilities: Contact Karen McCall, phone 360-664-1631, fax 360-664-9689, email rules@lcb.wa.gov, by March 7, 2018.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule for acceptable forms of identification need[s] to be revised to add NEXAS [NEXUS] cards and passport cards.

Reasons Supporting Proposal: The NEXAS [NEXUS] card and passport cards are used as forms of identification by many consumers. All of the required information for acceptable forms of identification is present on these two forms of identification.

Statutory Authority for Adoption: RCW 66.08.030.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA, 360-664-1631; Implementation: Becky Smith, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA, 360-664-1615; and Enforcement: Justin Nordhorn, Enforcement Chief, 3000 Pacific Avenue S.E., Olympia, WA, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. There are no costs or reporting requirements to licensees.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. There are no costs or reporting requirements to licensees.

January 24, 2018
Jane Rushford
Chair

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-11-025 What are the forms of acceptable identification? (1) Following are the forms of identification that are acceptable to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol:

(a) Driver's license, instruction permit, or identification card of any state, or province of Canada, from a U.S. territory or the District of Columbia, or "identicard" issued by the Washington state department of licensing per RCW 46.20.-117;

(b) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an embedded, digital signature in lieu of a visible signature;

(c) Passport, passport card, NEXAS card;

(d) Merchant Marine identification card issued by the United States Coast Guard; and

(e) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington driver's licenses.

(2) If the identification document has an expiration date, a person may not use the document after the expiration date to verify his or her age.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.